CITY COUNCIL STAFF REPORT
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Type C Quasi Judicial Action – Rezones Associated with Comprehensive Plan 2004-2005 Annual Review Docket Adoption of Ordinance No. 389 (Echo Lake, File No. 201372) & Ordinance No. 390 (Harper, File No. 201277)
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Tim Stewart, Director Andrea L. Spencer, Senior Planner

SUMMARY

The purpose of this meeting is to review the rezones associated with the 2004-2005 Comprehensive Plan Amendment Docket. This docket is comprised only of four site specific land use map amendment requests, and three of the amendment submissions have associated rezone applications (the land use amendment requests were reviewed by Council last week, on June 6). Ordinance 388 has been drafted for the adoption of the Comprehensive Plan major update and it is also anticipated to include the adoption of three of the land use change requests in the 2004-2005 Comprehensive Plan Amendment Docket, as recommended by Planning Commission. Ordinance 388 must be passed prior to the adoption of the rezone ordinances contained within this report (Ordinances 389 and 390).

A rezone of property in single ownership is a Quasi-Judicial decision of the Council. An open record public hearing was previously conducted before the Planning Commission. Council's review must be based upon the written record and no new testimony may be heard. The Planning Commission conducted the hearings on March 3, May 4 and May 5, 2005 and completed its recommendation to Council on the proposed rezones on May 19, 2005.

ALTERNATIVES ANALYZED

The following options are within Council's discretion and have been analyzed by staff:

- Harper rezone, file 201277, Council has the option of rezoning to any district from R-12 to R-48, as any of these districts would be consistent with the High Density Residential designation. Planning Commission and Staff Recommend approval of the application as requested by applicant to rezone to R-24.
- Echo Lake rezone, file 201372, Council has the option of leaving the current zoning, rezoning to any district from R-8 to R48 or any Commercial Designation, or rezone to RB-CZ. Planning Commission and Staff Recommend approval of the application as requested by the applicant to rezone to RB-CZ.

RECOMMENDATION

The Planning Commission and Staff recommend that Council adopt Ordinance No. 390 (Attachment B) thereby approving the Harper rezone to R-24 and adopt Ordinance No. 389 (Attachment C) thereby approving the Echo Lake rezone for RB-CZ. Staff also recommends that Council make a motion to accept the Planning Commission findings and recommendation of denial (Attachment D) for the Crosby rezone.

Approved By: City Manager City Attorney

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The following are brief summaries of the three rezones applications associated with the site-specific Comprehensive Plan Amendments (there were four site-specific land use change requests, and only three had rezones associated with them). The Planning Commission conducted the hearings on March 3, May 4 and May 5, 2005 and completed its recommendation to Council on the proposed rezones on May 19, 2005 (minutes of these meetings are included in **Attachment A**). The reader should note that the minutes for the Planning Commission meetings for land use change requests were included as part of the June 6, 2005 Council Meeting packet.

1. **File #201277, HARPER, Located at 19671 15th Ave NE.**
(Ordinance 390 – Attachment B)
   - **Proposal:** A request to change the Comprehensive Plan Land Use designation for a site with a designation as Ballinger Special Study Area (BaSSA) to High Density Residential (HDR) and concurrent rezone to R-24.
   - **City Council Direction & Planning Commission Recommendation on Comprehensive Plan Land Use Change:** On March 3, 2005 Planning Commission conducted the first public hearing on this land use change request. On April 14, 2005 the Commission deliberated on the land use change request, and recommended changing the Land Use designation to HDR. At the time of this report's preparation Council was scheduled to conduct a second public hearing and will review the land use change on June 6, 2005. If Council accepts Planning Commission recommendation, staff will be including the proposal as a revised land use map as part of the adoption of Ordinance 388.
   - **Concurrent Rezone:** Rezone request from R-6 to R-24. The rezone hearing was conducted in conjunction with the Comprehensive Plan Amendment hearing on March 3, 2005. Planning Commission deliberated and recommended approval of the rezone on May 19, 2005 (see Planning Commission findings and recommendation in **Attachment B – Ordinance No. 390, Exhibit I**). Staff recommends that Council accept Planning Commission's recommendation and approve the requested rezone for this parcel.

2. **File # 201372, ECHO LAKE, Located at 19250 Aurora Ave N.**
(Ordinance 389 – Attachment C)
   - **Proposal:** A request to change the land use designation of portions of the Echo Lake property from High Density Residential (HDR) and Public Open Space (PubOS), so that the entire parcel is designated Mixed Use (MU). Rezone request to Regional Business – Contract Zone.
   - **City Council Direction & Planning Commission Recommendation on Comprehensive Plan Land Use Change:** On April 14, 2005 Planning Commission conducted the first public hearing on this land use change request. On April 21, 2005 the Commission deliberated on the land use change request, and recommended changing only that portion of the site that is currently designated HDR to MU. Further, Commission recommended that the current designation of PubOS remain without modification. At the time of this report's preparation Council was scheduled to conduct a second public hearing and will review the land use change on June 6, 2005. If Council accepts Planning Commission recommendation, staff will be including the proposal as a revised land use map as part of the adoption of Ordinance 388.

- **Concurrent Rezone:** Rezone request from Regional Business (RB) and R-48 to RB-Contract Zone (RB-CZ). The rezone hearing was conducted on May 4 and 5, 2005 in conjunction with the Hearing Examiner SEPA appeal hearing. Planning Commission deliberated and recommended approval of the rezone on May 19, 2005 (see Planning Commission findings and recommendation in **Attachment C – Ordinance No. 389, Exhibit A** and Planning Commission recommended conditions of rezone in Attachment **C – Ordinance 389, Exhibit C**). Staff recommends that Council accept Planning Commission's recommendation and approve the requested rezone for this parcel subject to the attached conditions.

3. **File #201371, CROSBY, NW Corner of N 160th and Fremont Pl. N.**
(Staff Recommends Motion to Accept PC Findings of Denial – Attachment D)

- **Proposal:** A request to change the Comprehensive Plan Land Use designation for a site with a Low Density Residential (LDR) designation to High Density Residential (HDR).
- **City Council Direction & Planning Commission Recommendation on Comprehensive Plan Land Use Change:**
On March 3, 2005 Planning Commission conducted the first public hearing on this land use change request. On April 14, 2005 the Commission deliberated on the land use change request, and recommended that the land use designation not be changed, that the site should remain LDR. At the time of this report's preparation Council was scheduled to conduct a second public hearing and will review the land use change on June 6, 2005. If Council accepts Planning Commission recommendation, staff will not be including the proposal as part of Ordinance 388.
- **Concurrent Rezone:** Rezone request from R-6 to R-24. Rezone hearing conducted in conjunction with the Comprehensive Plan Amendment hearing on March 3, 2005. Planning Commission deliberation and recommendation on the rezone is scheduled for May 19, 2005. If Council has accepted Planning Commission's recommendation to deny the land use change request (to change to High Density Residential) Staff recommends that Council accept Planning Commission's recommendation and deny the requested rezone for this parcel because it would not be consistent with the Comprehensive Plan.

CITY COUNCIL OPTIONS

Planning Commission has found that three of the four proposed site specific Comprehensive Plan amendments are consistent with the Washington State Growth Management Act, King County Countywide Planning Policies, the City of Shoreline 1998 adopted Comprehensive Plan, the November 2004 City of Shoreline Comprehensive Plan Planning Commission Recommended Draft, and the City of Shoreline Development Code.

If Council accepts this Planning Commission recommendation for the land use change requests, then the following options are available for the applications that had rezones (three of the four applications had rezones):

- Harper rezone, file 201277, Council has the option of rezoning to any district from R-12 to R-48, as any of these districts would be consistent with the High Density Residential designation. Planning Commission and Staff Recommend approval of the application as requested by applicant to rezone to R-24.
- Echo Lake rezone, file 201372, Council has the option of leaving the current zoning, rezoning to any district from R-8 to R48 or any Commercial Designation, or rezone to RB-CZ. Planning Commission and Staff Recommend approval of the application as requested by the applicant to rezone to RB-CZ.
- Crosby rezone, file 201371, Planning Commission found that this land use change request would be in conflict with the policies of Comprehensive Plan and would change the character of the neighborhood. If Council has accepts this recommendation, the only option will be to deny the rezone because it would be inconsistent with the Comprehensive Plan.

RECOMMENDATION

The Planning Commission and Staff recommend that Council adopt Ordinance No. 389 (Attachment C) thereby approving the Echo Lake rezone for RB-CZ and adopt Ordinance No. 390 (Attachment B) thereby approving the Harper rezone to R-24. Staff also recommends that Council make a motion to accept the Planning Commission findings and recommendation of denial (Attachment D) for the Crosby rezone.

ATTACHMENTS

Attachment A:	Planning Commission Meeting Minutes for March 3, May 4, 5, 19, 2005.
Attachment B:	Ordinance No. 390, Harper Rezone File No. 201277
Attachment C:	Ordinance No. 389, Echo Lake Rezone File No. 201372
Attachment D:	Planning Commission Findings of Denial for Crosby Rezone File No. 201371

ATTACHMENT A

PLANNNING COMMISSION MINUTES FOR:
March 3, 2005
May 4, 2005
May 5, 2005
May 19, 2005

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING

March 3, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT
Chair Harris
Vice Chair Piro
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner MacCully
Commissioner Sands
Commissioner Hall
Commissioner Broili

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Dave Pyle, Planner I, Planning & Development Services
Ian Sievers, City Attorney
Jessica Simulcik, Planning Commission Clerk

1. CALL TO ORDER

The regular meeting was called to order at 7:03 p.m. by Chair Harris, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners McClelland, Kuboi, Phisuthikul, MacCully, Sands, Hall and Broili.

3. APPROVAL OF AGENDA

Chair Harris pointed out that, at this time, the Commission is required to end their meetings no later than 10 p.m., so that staff can clean up the materials and clear the building by 10:30 p.m. Also, Chair Harris announced that the SEPA Determination for the Echo Lake site-specific Comprehensive Plan amendment (Agenda Item 6.iv) and concurrent contract rezone was appealed. Therefore, the public hearing on the application was postponed to a later date. A notice of the rescheduled public hearing would be published, posted and mailed to the parties of record and property owners within 500 feet of the site. He concluded that the Commission would proceed with public hearings on the other three site-specific Comprehensive Plan amendments and rezones. However, they would wait to issue a

recommendation on all four Comprehensive Plan amendments and rezones until after the rescheduled hearing on the Echo Lake site has taken place.

The remainder of the agenda was approved as written.

4. APPROVAL OF MINUTES

The minutes from the February 5, 2005 meeting were approved as amended.

5. GENERAL PUBLIC COMMENT

Chair Harris explained that during this portion of the meeting, the Commission would not accept testimony from the public regarding the Echo Lake Comprehensive Plan Amendment or any of the other three quasi-judicial hearings scheduled for later on the agenda.

Gini Paulsen, 16238 – 12th Northeast, advised that she is a sociologist by profession. She reported that two forums were held during the past week at which an environmental engineer Tom Holts made a presentation on "Zero Impact Development." Commissioner Broili attended this presentation, as well. She explained that zero impact development puts the environment first by using techniques and strategies to minimize the impact on the environment during any kind of development. These strategies include using permeable surfaces to minimize runoff and to protect, enhance, and restore streams. She said she would like Shoreline to be a model city by prescriptively requiring zero impact development for all future projects in the City.

Ms. Paulsen further reported that on March 2nd she attended a town hall meeting, which is the first one in the area where panels of speakers were present to talk about a crucial issue to the City. She said she was surprised that none of the Commissioners were in attendance. She said that in sociology there is a theory called "rational choice." This theory is based on gathering information and hearing the information. The Commission cannot learn and hear adequate information unless they attend the available events. The rational choice theory also means that preconceived ideas must be set aside when making an evaluation of various kinds of alternatives. She asked that the Commissioners pay attention to the information that has been provided since it is valuable and will bear on decisions they will be required to make.

Janet Way, 940 Northeast 147th Street, said she was present to speak on behalf of the Thornton Creek Legal Defense Fund, the Sno-King Environmental Council, and the Echo Park Group. She expressed her opinion that the City should not have scheduled a public hearing on the Echo Lake Comprehensive Plan amendment before the appeal period was finished. This has resulted in an inconvenient situation for the public who came to talk about the issue only to learn that it had been postponed. She asked that she be allowed to distribute copies of the SEPA appeal letter that is now part of the public record. City Attorney Sievers explained that, although the appeal letter is part of the public record, it would not be appropriate to distribute it since the Planning Commission is not ready to begin the quasi-judicial hearing on the matter. Ms. Way continued her comments by attempting to point out some of the issues her group raised earlier about the public process for the Echo Lake proposal. Chair Harris pointed out

that Ms. Way's remarks were inappropriate at this time, since the public hearing on the Echo Lake application was postponed to a later date. Again, he reminded the public that the Commission would not take public testimony on the Echo Lake proposal at this time. Ms. Way said she believes the public deserves an explanation about what is going on.

Mr. Stewart reviewed that the items listed on the Commission's agenda for public hearings are the four items that have been docketed for the 2004/2005 annual review of the Comprehensive Plan. Policy LU-7 encourages the City Council to annually review the Comprehensive Plan for updates. The City received four specific proposals to amend the land use plan. The public hearing was originally scheduled for all four of the items, but the SEPA Determination on one of the items was appealed recently. This means that the SEPA appeal would have to be heard by the Hearing Examiner at the same time the Commission hears the proposed Comprehensive Plan amendment and site-specific rezone application, which is a quasi-judicial process. He reminded the Commission that State law only allows the City to conduct one public hearing on any development permit application.

Mr. Sievers further explained that in rezone application situations, the City Council holds a closed-record hearing, and the pre-decisional recommendation made by the Planning Commission constitutes the open record hearing. Only one open record hearing is allowed, and in cases of appeal, the appeal hearing must be consolidated with the rezone hearing. The Hearing Examiner would sit with the Planning Commission for the open record hearing to hear issues related to the SEPA appeal while the Planning Commission accepts public testimony on the actual rezone application. He said he would assume there would be a gap between the public hearing and the Planning Commission deliberations to allow the Hearing Examiner to issue a decision on the SEPA appeal since the SEPA Determination should be completed before the Commission makes their recommendation. He said he expects that the open record hearing for the Echo Lake proposal would be scheduled sometime within the next month.

Commissioner Hall said that as part of Agenda Item 9 (New Business), he would propose that the Commission add to a future agenda a discussion of the advantages and disadvantages of noticing a hearing prior to a SEPA deadline.

Mr. Stewart explained that State law allows the City to update their Comprehensive Plan only once per year. When the City Council extended its public participation process for the major 2004 update, they anticipated that they would complete their work by the end of February. However, they have only reviewed about 40 percent of the policies, and they still have to review the capital facilities element and all of the master plans, too. It is very likely the Council's review process would go on for some time. In the meantime, the 2005 Comprehensive Plan review is getting started. Staff would discuss this issue with the City Council and keep the Commission apprised of how the timing issues would be resolved.

6. STAFF REPORTS

File #201371: North 160th and Fremont Place Site-Specific Comprehensive Plan Amendment and Rezone

Chair Harris reviewed the rules and procedures for the public hearing process. He reviewed the Appearance of Fairness rules and requested that Commissioners disclose any ex-parte communications regarding File #201371. He offered an opportunity for members of the audience to raise their concerns regarding the appearance of fairness, but no one stepped forward.

Commissioner MacCully disclosed that he spoke with the developer of the property identified as File #201371, who happens to be his friend. He met with him and visited the property. City Attorney Sievers suggested that Commissioner MacCully identify the substance of his conversations for the record. Commissioner MacCully said that when he visited the property, the developer described the features of the property and the process he had gone through to acquire it. He walked around the property, but didn't discuss anything specific other than the number of units the developer is considering for the property and why he made the decision to develop fewer units than would normally be allowed. They also talked about the street dead ending at the property, and the developer indicated that it is unlikely it would ever be put through. City Attorney Sievers said he would classify Commissioner MacCully's activities as a site visit. Since he disclosed the topics that were discussed, there should not be an appearance of fairness issue.

Mr. Pyle reviewed the staff report for File #201371. He said the proposed action is an amendment to change the Comprehensive Plan land use designation from low-density residential to high-density residential. It includes a concurrent rezone proposal to change the property from R-6 to R-24. He pointed out that the area is surrounded by three different neighborhoods: an R-6 neighborhood to the northwest, an R-18 neighborhood to the northeast, and a regional business or commercial area to the south. He provided a map to illustrate the extent of the higher density developments to the northeast of the site and noted that the access is not shared by the low-density R-6 zone to the west. He provided pictures to further illustrate the subject and surrounding properties.

Mr. Pyle advised that five letters of public comment were received by the City. The concerns were as follows:

- **Renters versus owners and apartments versus condominium.** Mr. Pyle explained that the City does not govern the ownership status of buildings and units. Any development on this site would be consistent with the high-density buildings that are adjacent and to the northeast. The majority of the comments were received from people who live in buildings that actually have a high number of rental units.

- **There could be up to a 30-percent increase in traffic.** Mr. Pyle advised that, as per the Shoreline Development Code requirement, staff used the Institute of Transportation Engineer (ITE) Trip Generation Manual to determine the potential amount of P.M. peak hour vehicle trips. The estimation was that the vehicle trips would not exceed five, and a traffic study would only be required if the additional trips would exceed 20.

- **Loss of the greenbelt.** Mr. Pyle pointed out that there is no greenbelt located near or adjacent to the subject project. Currently, Fremont Place is an unimproved section of right-of-way that has not been paved. At any point, this right-of-way could be paved, but it would be up to the City's Public Works Department. He also noted that the site, itself, is not a greenbelt. It is simply a vacant parcel that can be developed at any time under the R-6 zoning.

- **Noise.** Mr. Pyle advised that no project proposal has been submitted for the site yet. He pointed out that any future project would be required to comply with the Development Code regulations regarding landscaping, tree retention and tree replanting. In the past, the City has found these regulations to be sufficient for developments of this type.

- **Increases in stormwater.** Mr. Pyle pointed out that the proposal is a non-project action, so the City has not yet received a project proposal. However, he spoke with the stormwater engineer, who indicated that any future development would require a type II detention facility on the site.

Mr. Pyle reviewed the staff's conclusions as follows:

- **Consistency:** The proposed site-specific Comprehensive Plan amendment and concurrent rezone is consistent with the Washington State Growth Management Act, King County Countywide Planning Policies, the City of Shoreline 1998 adopted Comprehensive Plan, the November 2004 Planning Commission recommended draft Comprehensive Plan, and the Shoreline Development Code.

- **Compatibility:** The proposed zoning is consistent with the proposed changes in land use designation, as identified in the site-specific Comprehensive Plan amendment.

- **Housing/Employment Targets:** The proposed action would improve the City's ability to meet housing or employment targets as established by King County to meet requirements of the Growth Management Act.

- **Environmental Review:** The project has satisfied the requirements of the State Environmental Policy Act (SEPA).

Based on the findings outlined in the staff report, Mr. Pyle said staff recommends approval of Application #201371 – a site-specific Comprehensive Plan amendment and rezone.

Commissioner McClelland inquired if the stand of trees located on the ridge would have to be removed. Mr. Pyle said this would be part of a project action. He referred to the attachment in the staff report that spoke to a 15-foot linear separation from the adjacent R-6 zone (Page 111). He explained that the applicant would be required to maintain 20 percent of the trees, with replanting for any significant trees removed beyond six. It could potentially be in the developer's best interest to retain the trees within the 15-foot linear separation.

Commissioner McClelland referred to the graphs that were provided in the staff report to illustrate the ITE Manual traffic generation information. The staff report indicates the proposal would generate nine trips during the peak period. Mr. Pyle clarified that the maximum number of additional trips would actually be seven. Commissioner McClelland requested information about the current number of P.M. peak trips coming from the existing condominium projects in the area. She asked if the additional nine trips would push the number of total trips into a situation that would require further review. Mr. Pyle answered that there are two condominium complexes with about 37 units each. Another townhouse development provides 57 units. When comparing the proposed change to the 130 units that are already utilizing Fremont Place as an access drive, the potential four additional units that could be built on the subject property would be relatively insignificant in comparison.

Lee Michaelis, Puget Sound Planning, 19817 Sunnyside Drive North, #5204, said he is acting as agent for the applicant.. He referred to the site photograph (top left) that was taken from Evanston Street. He noted that it is difficult to see anything through the trees, which act as a natural buffer. Next, he referred to a photograph that illustrates the three-story condominium project that is located across the street from the subject property. Because there is a parking garage on the bottom level, the building is actually four stories. A project on the subject property would most likely only be three stories tall so the new building could act as a transitional development.

Mr. Michaelis recalled that the staff report indicated that five peak hour trips would be generated by the proposal. He summarized the traffic impact associated with the proposed change by explaining that with the assumption of a 50/50 split coming out of Fremont Place, there would only be 2½ vehicles going to the east and 2½ to the west. He noted that there would be no trips going down Evanston Street since it is a cul-de-sac. Once the traffic splits at Dayton, there would be one car going north and one going south. He concluded that the proposal is concurrent with the level of service at the nearby intersection.

Regarding noise, Mr. Michaelis said he does not believe the noise generated by a three or four-unit development on the subject property would be any greater than the 37 units next door or the cul-de-sac with five or six units. Therefore, he questioned whether there would even be a noise issue.

Mr. Michaelis agreed with Mr. Pyle that there is a 15-foot buffer requirement on the west property line, and anything that currently exists within that buffer would be retained unless the City requires that utilities come off 160th Street. At this time, the intent is to leave the buffer as is.

Mr. Michaelis said that, at this time, it is the developer's intention to develop owner-occupied units that would be sold to individual owners. Once the units are sold, however, the situation would be out of the developer and City's control as to whether the units would be owner occupied or rented out. This is similar to any other single-family or multi-family project in the City.

Mr. Michaelis recalled that Mr. Pyle clearly explained that Fremont Place is unimproved right-of-way. In the future, the City could definitely improve this property as a through way. Therefore, greenbelt is probably not the appropriate title.

Mr. Michaelis said that the stormwater plan for any development on the subject property would be tied into the existing City system. There is impervious surface to the north, so there must be catch basins and existing facilities for them to hook into. Stormwater would not be dumped into the area that has been referred to by citizens as the "greenbelt."

Mr. Michaelis asked that the Planning Commission forward a recommendation of approval to the City Council on the amendment and rezone applications as presented.

Commissioner Kuboi said that one of the written comments received from the public implied that there was a project description provided at a pre-application meeting in December. Mr. Pyle said that at the December meeting, a map was shown of a tri-plex structure. This map was incorrect and should not have been provided at that point. If the rezone is approved as proposed, the property could be developed with up to four units. He clarified that, at the time of application, there was no project description.

Commissioner Phisuthikul asked how the applicant arrived at his request for R-24 zoning, rather than R-18, which is the existing zoning for the adjacent properties. Mr. Michaelis said that R-18 zoning would not produce the number of units necessary for the project to pencil out economically. Commissioner Phisuthikul inquired how many units would be allowed if the zoning were changed to R-18 instead of R-24. Mr. Michaelis answered that if the property were rezoned to R-18, three units could be developed on the site. An R-24 zoning designation would allow four. Commissioner Phisuthikul asked if the applicant has already established that R-18 zoning would not make economic sense. Mr. Michaelis answered that this has not been established yet. He emphasized that, at the time of application, no unit count was proposed.

Dennis Jones, 700 – 160th North, #A205, said he is a resident of Forest Villa 1, which is part of a cluster of multi-residential units. He corrected previous statements by saying that in their development, there are only five rental units, and he would suppose the same percentage exists in the other condominium developments in the area. He noted that the condominium laws state that rental units cannot exceed 40 percent. Mr. Jones questioned the type of landlord the applicant would be. For example, has he received a lot of public complaints? If so, have they been addressed?

Mr. Jones expressed his concern that the objective of the proposal seems to change all the time. The applicant wants to go from a low-density development to a high-density development. He said that when he first started looking for a condominium, he couldn't get the developers to provide a defined answer on how well their homeowner's association would work. He also suggested there could be a concern related to conflict of interest, but he didn't offer any details on the record to support this concern.

Janet Way, 940 Northeast 147th Street, said she represents the Sno-King Environmental Council and Echo Park Group and has visited the subject property. She suggested that not all of the necessary information has been disclosed to the Commission. For instance, she noted that there is a greenbelt on the subject property along the right-of-way that is full of plant life and serves as a local walkway for the neighborhood. It also provides some habitat, even though the staff report indicates that there are no wildlife issues. She referred to the City's stream inventory for Boeing Creek, and noted that Boeing

Creek runs right along the greenbelt. She noted that at the apex of the triangle, it is possible to hear Boeing Creek running hard and fast under the manhole cover, even on a dry day. Ms. Way said it has been well documented that Boeing Creek suffers from a huge amount of water quality, water quantity and sediment issues downstream. It has also been well documented that Boeing Creek is a Class II Stream for Coho and Chinook Salmon. Upstream from the site is Darnell Park where the creek is open and unpiped. She suggested that the section of the creek that runs along the subject property within the greenbelt should be daylighted, as well. Otherwise, the City would be neglecting a perfect opportunity. Not only would the proposed project impact the creek, but the Aurora Corridor Project would impact the creek, as well.

Ms. Way said the trees that are located along the greenbelt serve an important purpose in preventing runoff. She referred to the meeting referenced by Ms. Paulsen earlier at which Tom Holts commented on the enormous amount of stormwater that is held by trees such as conifers, etc. Up to 50 percent of the water that falls on them never hits the ground. The trees on the site are not only important as a buffer for the neighboring properties, but they also serve an important stormwater function. If any of them are removed, they should be replaced with equal value trees. Also, all the trees that run along the greenbelt serve as habitat. She summarized that none of the issues she raised were evaluated in the staff report.

Ms. Way expressed her belief that holding the public hearing for this rezone application separate from the rezone application for Echo Lake is a piecemeal process, which is not an effective way to show the impact of all of the Comprehensive Plan amendments together. They will have an impact as a group, which is why they are being grouped together for review. This type of piecemeal process is confusing to the public.

Chair Harris said Ms. Way inferred that the Planning Commissioners had not visited the subject property. He clarified that he has visited the site, as have many of the other Commissioners.

Pat Crawford, 2326 North 155th Street, recommended that the property remain as R-6 rather than being rezoned to R-24. She said this is a good example of a piece of property that should remain as it is because of the sensitive features on the site. She asked that the Planning Commissioners keep in mind that with the curbing and other features of the Aurora Corridor Project, there will be a lot more stormwater directed towards Boeing Creek. The experts have said there is already poor drainage potential, and more units would further increase the problem. This is a good reason to retain the R-6 zoning designation for the subject property.

Ms. Crawford recalled that at the last meeting she provided the Commissioners with copies of a court decision from Judge Sharon Armstrong. She indicated that the pipe could potentially be illegal and have to come out at some point in the future. This type of thing is happening throughout the City. The existing pipe is failing. The Department of Fish and Wildlife will not grant hydraulic permits for the old pipes, and that is why they are opening the pipe out of Ronald Bog. The City must consider the future and address these situations. She expressed her concern with the Determination of Non-significance that was issued for the property since the City knows there is a stormwater problem and adding multiple units would increase it. She said she is also concerned that the ten-page EIS only deals with land use issues, and there is no information to illustrate how the proposal would address environmental elements.

Ms. Crawford said it is important for the Commission to remember that meeting the Growth Management Act goals must be accompanied by the critical areas requirements. The City should not throw out their critical areas within the urban areas in order to accommodate additional growth. They should respect the critical areas and acknowledge them in the EIS.

Nadra Burns, 700 North 160th Street, #A310, said she owns a condominium in the development that is located behind the subject property. She expressed her concern that rezoning the property to anything higher than R-6 would result in a decrease to the surrounding property values. The rezone proposal would result in an increase of traffic, an increase of noise as a result of the additional traffic, and a decrease in habitat. She reported that there are currently birds nesting in the trees in and around the greenbelt. In addition, she expressed her opinion that the proposed change would result in a decrease in surrounding property values due to the possibility of rentals being built. There could also be an increase in crime as a result of more vehicles and people. She said that if more than one unit is built on the site, there would be very little space for parking. If a maximum of four families were to live on the subject property, there must be a minimum of four parking spaces to accommodate only one car per family. Any visitors would have to park on the street or in the guest spaces provided by surrounding properties.

Ms. Burns concluded that if the greenbelt were eliminated, the homes behind the subject property would be impacted. If the greenbelt is maintained, she questioned where the parking would be located. She further concluded that there would be an increase in traffic, and as a result, there would also be an increase in noise. She said she does not see how four units would fit onto a 7,900 square foot lot without causing overload. Ms. Burns said her understanding is that 80 percent of the units in her building are owned, and only 20 percent are rentals.

David Patten, 615 North 161st Place, said he owns property located to the west of the subject property and is favor of the proposed development. He expressed his concern that the development would result in multiple driveways along 160th Street, making it difficult to provide sidewalk and wheelchair access to Aurora Avenue. He suggested that the driveway access be provided in another location.

Deborah Ellis, 700 North 160th Street, A212, said she is also speaking on behalf of Jennifer Jasper in A303 who was unable to attend the meeting. She referred to a comment made earlier by Mr. Pyle concerning the number of owner occupied versus rental units in the existing condominiums. She said there are 39 units in her building, and at this time, only two are rentals.

Ms. Ellis pointed out that the majority of the existing trees are not located within the 15-foot setback buffer. Therefore, it is likely that they would be taken down and replaced with lower growing trees and shrubs. She questioned the need for the rezone to allow four townhouses on the site versus a single-family dwelling other than for profitability. She said it appears there would only be two parking spaces for each of the units, with some street parking. She requested more information about the proposed plans for parking. If street parking were allowed, it would create visibility issues for the people coming out of her building. She concluded by stating her belief that increasing the density from one unit to four would increase traffic and noise no matter what the staff report shows.

Kristie Magee, 700 North 160th Street, #A306, presented a letter from her neighbor that was entered as Exhibit 1. She said her concerns reflect those of previous speakers. Her big concern is about the decrease in property value and quality of life that would result from the proposed change. She particularly expressed that noise would increase, especially since the units would apparently be turned into rental properties. She noted that the majority of the existing condominiums in the area are owner occupied, which eliminates many of the issues typically associated with rental units. She asked the Commission to think about what typically happens several years down the road when rental units become run down and the turn over rate increases. Because there is no pride in ownership, the values of the surrounding properties and the quality of life tend to go down.

Ms. Magee referred staff's statement that any development would be consistent to what is located east of the art building. She suggested, instead, that any development on the property should be consistent with properties to the west, which are single-family homes.

Les Nelson, 15340 Stone Avenue North, said his home is located behind the Safeway at 155th Street, and he recalled that Safeway was required to put in a 15-foot buffer area. However, Seattle City Light would not allow the taller trees. Many of the plants that were installed died, and the City has not required Safeway to replace them. He noted that the buffer of trees that exists along the subject property line is about 30 or 40 feet. While Mr. Pyle showed how the tree line obscures the view of people to west, it is important to note that most of these trees would be removed to accommodate the utility easements. In addition, if the buffer zone were only 15 feet in width, the trees that are planted would not be tall enough to obscure the view.

Gini Paulsen, 16238 – 12th Northeast, recalled that several weeks ago she toured some of the streams identified on City maps. She noted that within the triangle where development is being planned there is a manhole cover with an orange mark on it. Under the manhole is a stream. As she walked through the greenbelt, she found additional manhole covers with orange markings and she could hear the stream (Boeing Creek) running underneath. Next, she went to Darnell Park, which is an upper tributary of Boeing Creek. While Boeing Creek in this location is not very large, it is very clear and very beautiful. If the City is going to use "zero impact development" as a model for containing, preserving, enhancing and restoring the environment, they must keep in mind that Boeing Creek feeds into the Sound, which they already know has been killed off. She urged them to keep preservation of the environment in mind and make sure that Boeing Creek is daylighted, not only in this location, but also through Darnell Park.

Ralph Syversen, 621 North 161st Place, said he has lived in the neighborhood for a long time, and has never seen a Boeing Creek in the greenbelt, but there has always been a lot of water under the manhole cover. He said he lives in the house just adjoining the subject property to the west, and their access is off of 161st Place. He reported that several years ago, he decided to subdivide his property to make two single-family lots since there was adequate separation from the more intense surrounding uses. It never occurred to him that the City would consider breaking their zoning designations to change from single-family zoning to multi-family zoning. While they may save some of the 15-foot buffer, if an apartment is built on the subject property, his property would be directly impacted because they would have to look down on the roof of the new building. He suggested that the proposal represents an improper use of the property, and the rezone application should be denied.

Tim Crawford, 2326 North 155th Street, referred to the "project review" section of the application, which states that the King County Surface Water Design Manual was used. However, he pointed out that the City's Surface Water Master Plan states that the 1994 Puget Sound Water Quality Manual must be used. He questioned which manual was used by the City to review the application. Mr. Crawford expressed that it is important to save the buffer and not encroach into the creek.

Gloria Bryce, 708 North 161st Place, said she lives in the first set of town houses located next to the subject property. She said there are not very many people from the town house units who use Fremont Place for access. She said she is not concerned about the noise the additional cars would create. She also expressed her concern about the loss of trees, because they really do enhance the neighborhood. She said she moved into her unit in 1980, at which point the two large buildings were not constructed yet. When they were constructed, they were used as rental units for several years and then converted to condominiums. Even if the new units are built as rental units, they could be converted to condominiums in the future, as well. Therefore, she suggested that the Commission should not focus on the negative aspect of the units being used as rental units. She said people have moved to her building because of the trees. When her building was constructed, as many trees as possible were saved. She said she is opposed to a rezone of the subject property to R-24. An R-18 zoning designation would allow more trees to be saved to enhance the neighborhood.

Corrie Ruderbush, 16103 Evanston Avenue North, said her biggest concern is the view impact to her home. She currently looks out over the trees and doesn't want to see a big building constructed behind her home. She said she is a biologist and loves to observe the wildlife in the greenbelt area. Just last week she saw an eagle fly over the condominiums. She concluded that a lot of wildlife uses the area. She pointed out that Boeing Creek already has a lot of sediment and erosion problems, and she does not support the higher density that is being proposed.

Jan Moberly, 720 North 161st Place, expressed her concern that the proposed change would result in development that utilizes on-street parking. She said she is amazed at the difference that the Shoreline Community College cosmetology school has caused to Linden Avenue. The visibility coming out of their complex onto Linden is much worse now. She worries that the same problem could result if the proposed change were approved.

Mr. Michaelis referred to comments made about the percentage of rentals units on the surrounding properties. He specifically noted that several citizens indicated that only about 25 percent of the units in their buildings were used as rentals. If this same percentage were applied to the subject property, it would result in only one rental unit out of the four that are proposed.

Mr. Michaelis referred to the question raised by Mr. Jones about the type of landlord the property would have. He explained that once the units are sold, the developer would not have any control over who the landlord would be. The developer does not intend to be the landlord. He is proposing to build four town homes that would be sold. He said he is not sure what Mr. Jones' reference to conflict of interest was related to.

Mr. Michaelis disagreed with Ms. Way's definition for a greenbelt, and questioned if a right-of-way would fit within the City's definition of a greenbelt. He pointed out that the application went through the SEPA process, which is intended to review for environmental issues. A decision was issued, and no appeal was filed. Therefore, he assumes the application complies with the decision and should be able to move forward. Also, Mr. Michaelis said it is important that this project not be associated with the Aurora Corridor Project. It should be considered a stand-alone application that is reviewed based on its own merit.

Regarding property values, Mr. Michaelis said he has not seen any concrete evidence to support the citizens' claim that property values would go down. However, typically, once land is improved, the property values go up. He also does not understand where the assumption of increased crime would come into play. If the existing larger developments do not create increase criminal activity, he questioned how just four units would make a significant difference. He assumed this comment was made without facts.

Mr. Michaelis questioned the relevance of court decisions that are not related to the project. He asked staff if any legal land use court decisions had been issued on the proposed project outside the realm of the current procedures. Mr. Stewart answered that Ms. Way was referring to another court case on the other side of town that had to do with pipes. Mr. Michaelis inquired if this court decision would be applicable to the subject application, and Mr. Stewart answered that it would not.

Mr. Michaelis recalled earlier public comments regarding the Growth Management Act requirements and noted that SEPA is part of the Growth Management Act process. Again, he said a SEPA review has been completed for the project, and no appeals or comments were received. Therefore, the project should be allowed to move forward with no further comment on the SEPA Determination.

Mr. Michaelis advised that the City would require two parking spaces per unit, which would mean eight, on-site parking spaces. It is up to the City to decide if they want to allow on-street parking on Fremont Place, as well. The proposal does not include on-street parking at this time. However, if Fremont Place were improved, there would be asphalt going all the way to the property line with curbs, gutters, sidewalks, etc. Parking could be allowed on one side of the street, but the City would have to make this decision.

Mr. Michaelis said the map illustrates the canopies of the existing trees, which go way beyond the trunks. The trunks could be located on the property line, with the canopies hanging over 15 to 20 feet. But to say that all of the trees are 25 feet from the property line is probably an incorrect assumption. They would have to look at the trunks to determine exactly where the trees are located. He said his assumption is that the trees are within 15 feet of the property line.

Mr. Michaelis pointed out that traffic is a SEPA concurrency issue, and staff did not raise any issues about traffic during their review.

Mr. Michaelis referred to the comparison Mr. Nelson made between the subject property and the Safeway development. He reminded the Commission that the Safeway development is a separate

project, and should not become the basis for the Commission recommending denial of the current application. The proposed application should stand on its own merits. If the code is applied correctly, there will not be any code enforcement issues after the fact.

Regarding the rooftop view from properties higher up, Mr. Michaelis advised that a 35-foot tall house would create the same type of view. The number of units allowed on the subject property would not alter the possible view significantly one way or another.

Mr. Michaelis explained that when talking about single-family zones, people often think of such things as the values of family life, values of neighborhoods, being part of something, etc. He pointed out that if a single-family home were constructed on the property, it would likely end up being a rental unit. He summarized that it would be difficult to convince someone to purchase a single-family home on the subject property since it would be separated from the single-family neighborhoods. He said he believes the subject property is an appropriate location for multi-family developments, and four units would provide an appropriate transition between the developments that are located to the east and the west of the subject property. He noted that the subject property faces the back of the adjacent condominium complex, and the proposed change would provide an area where four families could be together instead of one all alone.

Commissioner Phisuthikul asked if a survey had been done for the property to identify its contour and the location of the trees on the site. Mr. Michaelis answered that a survey has not been performed but would be done as part of the development process, which would only be started if the City grants approval of the Comprehensive Plan amendment and concurrent rezone as proposed.

Commissioner Broili requested clarification about the amount of parking that would be provided on the subject property. Mr. Michaelis answered that the Shoreline Development Code would require two parking spaces for each multi-family unit that has three bedrooms or more. So four units would require eight parking spaces. Commissioner Broili asked if the applicant feels that four units plus the required parking would all fit on the subject property. Mr. Michaelis referred to a type of development that provided two stories of construction, with parking located underneath, and said this is one option that could be considered for the subject property.

Commissioner Hall asked staff to review the City's standard procedure for ensuring that significant trees are protected. Mr. Stewart explained that when a development permit is submitted, the City would require a tree inventory showing the location of all of the existing significant trees on the site. The staff would then apply the Development Code standards for tree retention. Mr. Pyle added that the Development Code requires the retention of at least 20 percent of the trees. However, there are incentives within the Code that allow applicants to alter the placement of the structure on the lot in order to retain more of the significant trees. The City typically promotes the retention of clusters of trees, and sometimes the setbacks can be adjusted around the clusters. Mr. Stewart pointed out that the current code grants any property owner the right to remove six significant trees within a 36-month period without a permit.

Vice Chair Piro asked if there would be an opportunity to require fewer parking spaces of the development by noting the proximity of the property to the transit services that are available on Aurora Avenue. Mr. Stewart answered that an applicant could request a reduction of the on-sight parking requirements if they meet certain criteria, one of which is access to public transit.

Vice Chair Piro requested further information about how the height restrictions on the property would change if the proposed rezone were approved. Mr. Pyle referred to a table that was provided in the staff report to address this issue. He explained that there would be a five-foot difference between the R-6 and R-24 zones.

Vice Chair Piro requested feedback from staff regarding the public comments that were made about the existence of a piped stream. Mr. Stewart said under the current Development Code, streams are defined as surface watercourses with a defined channel or bed and piped watercourses are not regulated. Mr. Pyle added that there is no drainage easement currently located on the property, which indicates that there would be no required access necessary on the property. The cap that was referenced is located within the triangle area, but no survey has been conducted to indicate exactly where the pipe is located. Mr. Stewart said that when a development permit is submitted to the City, staff would request that easements or pipes be identified on the plot plan. He said it is likely that the drainage easement, if there is one, would be located in the right-of-way. But on many occasions, the City has encountered stormwater systems that have been constructed on private property. While they may fulfill a public function, they exist without any public easement or ownership. Shoreline does not have a clearly defined public drainage system.

If the City were to determine that such a drainage system was on the property itself, Vice Chair Piro inquired if there would be any implications in terms of development intensity opportunities. Mr. Stewart answered that the City would not allow a structure to be located on or over the utility, but this is a site development detail that would be addressed as part of the City's review of a development application.

Mr. Stewart referred to the question that was previously raised about the surface water design manual. He explained that the City has adopted the 1998 King County Surface Water Design Manual and the Urban Land Use Best Management Practices Volume IV of the 1992 Stormwater Management Manual for the Puget Sound Basin for best management practices. He reminded the Commission that the Stormwater Master Plan is currently under review by the City Council and has not yet been adopted.

Commissioner MacCully asked if a proposed development on the site would have the potential of changing the current sidewalk configuration on the property boundary along North 160th Street. Mr. Michaelis answered that access to the subject property would be off of Fremont Place, so no curb cuts are proposed along North 160th Street. The existing pedestrian access along 160th Street would not be disturbed. Mr. Pyle explained that preliminary discussions with the City's development review engineer indicate that the applicant would be required to do complete frontage improvements to bring the property up to code, and this would require ADA accessibility on the corner of Fremont Place and 160th Street. It would also require the reconstruction of the sidewalk along North 160th if it does not already meet ADA standards.

At Commissioner Broili's request, Mr. Stewart pointed out the location of Darnell Park. He explained that the significance of this park in Ms. Way's letter is that it contains a portion of Boeing Creek. He briefly described the location of Boeing Creek throughout the City. Commissioner Broili inquired if it would be reasonable to expect that stormwater from the subject property would be discharged into the piped stormwater line that runs down Fremont Place (Boeing Creek). Mr. Pyle answered that this could potentially occur, but it all depends on the system that is proposed and approved.

Commissioner Broili asked about the easement width requirements for utility services. Mr. Stewart said the width requirements vary depending on the type of service, the size, when the easement was granted, etc. Mr. Pyle noted that there would be no easement requirement for any of the underground electrical, water or gas utility lines. He explained that the subject property is different than the Safeway property, which was referenced by a citizen earlier in the hearing. There is a Seattle City Light right-of-way located to the rear of the Safeway site, and they can strictly regulate what can and cannot be placed within their right-of-way. The subject property is privately owned, and the City owns the right-of-way.

Mr. Stewart informed the Commission that Ms. Way would like to enter Figure 2.3 of the Boeing Creek Basin Characterization Report into the record. The document provides an illustration of what he described earlier about the location of Boeing Creek. He advised that he would provide a copy of the figure to each of the Commissioners. However, he said staff would dispute the location of the x Ms. Way placed on the map to identify the subject property's location. He said the site location is actually further to the south.

Commissioner Kuboi pointed out that the existing R-6 zone would allow a maximum of 50% impervious surface, and an R-24 zone would allow up to 85%. However, the R-24 zone would require a Type II Stormwater Detention facility. He inquired if any type of detention would be required for an R-6 zone. Mr. Pyle answered that the detention requirements for R-6 developments are determined on a case-by-case basis depending on the soil conditions and other alternatives.

Commissioner Kuboi asked Mr. Michaelis if he could discuss the possible parameters of what the footprint would be and whether or not a significant number of trees would have to be removed. Mr. Michaelis said that without an actual survey identifying the location of the trunks of the trees, he would not be willing to provide further statements regarding this issue. Commissioner Kuboi asked if Mr. Michaelis was in a position to know whether or not the applicant would entertain a rezone that was conditioned on keeping a certain number of the trees within the 15-foot buffer. Mr. Michaelis said he would not advise in favor of any conditions without specific knowledge of what the language says beforehand.

Commissioner McClelland reviewed the property's setback requirements with the staff. She clarified that a buffer would not be required in addition to the setback, and the setback may or may not include the cluster of the trees. Mr. Pyle clarified that some of the trees are located on the subject property and some are not. Under the R-24 zoning designation, assuming that it is not abutting or adjacent to a lower zoning of R-6, a property would only be required to have five feet of rear yard setback. But in this situation, the proposed R-24 zone abuts an R-6 zone. Therefore, the rear property setback requirement

would be 15 feet. He further pointed out that the percentage of impervious surface would be calculated based on the entire tax parcel, including the property located within the setback areas.

Commissioner Broili inquired if the 15-foot setback would be measured horizontally or if it would follow the contour of the land. He noted that the stand of trees is located on a slope, so the distance could be different depending on which way it is measured. Mr. Stewart explained that in this case, the trees are all located near the setback, but the tree provision only requires the percentage to be retained on site, and not necessarily within the setback. Trees and setbacks are two separate provisions of the code that, in this case, just happen to overlap. He said he suspects that when the applicant submits a development application, they will do their tree retention plan in the places where the trees are currently located, and hopefully retain more than the minimum. He further explained that the setback would not be measured following the contour of the land.

Commissioner Kuboi explained that the Planning Commission's responsibility is to look at the good of the community as a whole, and this includes looking at the community from the perspective of future residents. There were a number of comments about renters versus owners, and he wished the community would not segregate the two as good or bad. The community is as good as it is because they have a bit of everything. Everyone has a right to live in the community, and the City needs to provide a selection of housing to meet the needs of a wide variety of people. He reminded the residents of the condominiums projects that surround the subject property that, conceivably, the people who lived in the neighborhood before their units were developed could have had the same concerns. He said it would behoove everyone to think about what it takes to make a community, both the residents of Shoreline now and the new people who will move into the City in the future.

Les Nelson pointed out that the setback area would only be 15 feet, and the canopy and roots of the trees are up to 30 feet in width. He said one way or another, all of the trees would be removed to make room for the utility lines that are necessary to serve the future development.

Janet Way asked for another opportunity to provide additional information for the record. Chair Harris expressed that Ms. Way had already had an opportunity to speak before the Commission, and it was time for the Commission to close the public hearing. Ms. Way expressed her objection to Chair Harris' interpretation of the public hearing procedures.

AT THE CONSENSUS OF THE COMMISSION, CHAIR HARRIS CLOSED THE PUBLIC HEARING.

Mr. Stewart announced that because of the appeal that was submitted for the Echo Lake proposal, the Commission would postpone their deliberations on this item until a future date. He encouraged the citizens to follow the Planning Commission's agenda on the City's Website for further information about when this item would be further debated.

File #301275: 18511 Linden Avenue North Site-Specific Comprehensive Plan Amendment

Chair Harris briefly reviewed the rules and procedures for the public hearing. He invited Commissioners to disclose any ex-parte communications they might have had on the agenda item. He also invited members of the audience to voice their concerns regarding the participation of any Commissioner. None of the Commissioners nor anyone in the audience voiced an appearance of fairness issue.

Mr. Pyle explained that the proposal is a site-specific Comprehensive Plan amendment request and does not include a rezone. The request is to change the land use designation of the subject property from high-density residential to mixed use. The zoning on the parcel would remain as R-48, since an R-48 zoning designation would still be allowable in a mixed-use land use designation. No development proposal has been submitted to date.

Mr. Pyle used maps to illustrate the subject property and the surrounding uses, which includes mixed-use, commercial business and medium-density land use designations. He referenced the zoning map and pointed out that surrounding zoning includes R-18, R-12 and RB. He noted that the subject property is located just behind the James Alan Salon, and it takes access off of Linden Avenue North. The Windermere Real Estate Building is located directly to the east, and a Verizon phone relay station is directly to the north. He briefly reviewed the aerial photograph that was prepared for the site.

Mr. Pyle pointed out that the proposed mixed-use land use designation would allow the opportunity for a future rezone to a commercial designation, which would be prohibited by the existing high-density residential designation. A commercial zoning designation would allow for expansion of the James Alan Salon when their business needs to grow, but a rezone would have to be approved by the City.

Mr. Pyle said staff believes the three criteria for approval of the Comprehensive Plan amendment have been met by the proposal. Therefore, they recommend that the Planning Commission gather public testimony, consider the record, and then forward a recommendation to the City Council to approve the site specific land use amendment as proposed.

Mr. Pyle recalled that when the City undertook the 2001 Reconciliation Project, they reviewed all of the zoning and land used designations for the entire City for consistency. When the City of Shoreline incorporated, the subject parcel was slated as mixed use. However, it was zoned as R-48.

Keith McGlashan, Applicant, explained that at the time the application was submitted, they didn't ask to apply for a concurrent rezone because they did not own all the properties. However, they secured the salon in December and closed on the little house last Monday. Now they own the entire parcel, and they are excited about expanding their facility to create more jobs and provide more retail space in the City.

Commissioner MacCully asked how the City would handle a situation where a person owns two pieces of property with identical zoning and wants to develop something that goes over the property line. Mr. Stewart explained that if an owner wanted to develop across the property line, a simple lot consolidation process would be required to remove the property line and a SEPA review would not be necessary.

Vice Chair Piro pointed out that going to a mixed-use land use designation for the parcel would not necessarily require that future construction provide multiple uses. Future development opportunities

would include residential, office, retail, etc. Mr. Stewart clarified that the mixed-use designation in both the current and proposed Comprehensive Plan would allow a number of different zones. From the City's point of view, the ideal would be to encourage real mixed-use development that provides for a multiplicity of uses. But this would depend upon the market and the desires of the property owners. The R-48 zoning that exists on the property would not allow for commercial development. If it were changed to a retail commercial zoning designation, both residential and commercial uses would be allowed.

Commissioner McClelland inquired if sidewalks would be required along the street front if the site were redeveloped in the future. Mr. Stewart answered that, typically, all redevelopment projects that meet certain thresholds require frontage improvements.

Mr. Stewart provided further clarification that even if the proposed land use designation of mixed use were approved, the applicant would not be able to develop the property as a commercial use unless a rezone were approved. Commissioner McClelland questioned why the applicant did not apply for a concurrent rezone application if their intention was to expand the retail uses on the site. Mr. McGlashan said they chose not to apply for a rezone because it was less costly for them to purchase the two additional parcels as residential rather than commercial zoning.

Vice Chair Piro clarified that a rezone could happen at any point during the year, and is not limited to a once-a-year review of the Development Code. Mr. Stewart agreed and further explained that the once-a-year limitation only applies to the Comprehensive Plan and not the Development Code.

Janet Way, 940 Northeast 147th Street, reiterated her concern that the rezone and Comprehensive Plan amendment hearings for three proposals are being conducted simultaneously as legislative and quasi-judicial processes while the Echo Lake proposal has been postponed. This means it could be quite some time before the issues are deliberated upon, since the Echo Lake appeal must be resolved first. She suggested the process might be confusing to the public, and it will be unclear how all of the projects interrelate and impact each other.

CHAIR HARRIS MOVED THAT THE PUBLIC HEARING BE CLOSED. COMMISSIONER MACCULLY SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

File #201277: 19671 – 15th Avenue Northeast Site-Specific Comprehensive Plan Amendment and Rezone

Again, Chair Harris briefly reviewed the rules and procedures for the public hearing. He invited Commissioners to disclose any ex-parte communications they might have had on the agenda item. He also invited members of the audience to voice their concerns regarding the participation of any Commissioner. None of the Commissioners or anyone in the audience voiced an appearance of fairness issue.

Mr. Pyle reviewed the staff report explaining that the application is for a site-specific Comprehensive Plan amendment and rezone. The proposed action is to change the Comprehensive Plan land use

designation from Ballinger Special Study Area to high-density residential. The subject property was placed in Ballinger Special Study Area status during the 1998 Comprehensive Plan adoption. The applicant has also submitted an application for a concurrent rezone to change the site from R-6 to R-24, and the surrounding property is already zoned R-24 on all sides of the subject property. He provided a map to illustrate the subject property and the surrounding R-24 zones. He also provided photographs of the surrounding properties.

Mr. Pyle explained that upon annexation of the Ballinger Neighborhood from King County in 1995, the City designated the parcel as high-density residential and adopted it as such in the 1998 Comprehensive Plan. In 2001 the Ballinger Neighborhood was changed to the designation of Ballinger Special Study Area as part of the zoning and land use reconciliation project. The zoning of the parcel as R-6 was frozen at that time. Approval of the proposal would allow the parcel to be designated as high-density residential and allow it to rezone to be consistent with the surrounding zones. The use of the house on the subject property as a single-family residence is not very practical as it is surrounded by R-24 uses. The owner claims it has been difficult to rent the home, and this impacts his ability to make improvements. Because of the intensity of the surrounding developments, it is apparent that the infrastructure exists to support redevelopment of the site. He pointed out that as part of the SEPA process, notices were mailed to all of the utility providers, and the applicant was required to acquire water and sewer availability certificates.

Mr. Pyle said that since this site is surrounded by high-density uses, rezoning the parcel would not lead to a further growth outward of the high-density zone. He explained that one of the intents of the Ballinger Special Study Area was that the area of higher density not expand outward and become larger.

Mr. Pyle reported that staff has concluded that the application is consistent with the 1998 Comprehensive Plan, the 2004 Planning Commission recommended Comprehensive Plan Draft, the King County Countywide Planning Policies, and the City of Shoreline Development Code. The proposed zoning is consistent with the surrounding areas and would allow for the construction of up to five units, thus helping the City meet its growth targets. He said the project has also satisfied the requirements of the State Environmental Policy Act as outlined in the Staff Report. Therefore, staff recommends that the Commission approve the proposed applications for a site-specific Comprehensive Plan amendment and a rezone to R-24.

David Maul, Rutledge Maul Architects, 19236 – 47th Avenue, Lake Forest Park, said staff did a great job of putting together the facts associated with the applications. He stated that the proposed changes would be good for the neighborhood, and all of the utilities and the infrastructure to support future development of the site are already in place. He asked that the Commission forward a recommendation of approval to the City Council.

Commissioner McClelland asked if the structure located behind the house is currently being used as a dwelling unit. Mr. Maul said it is a detached garage with an apartment above it. There are two dwelling units on the site right now.

Vice Chair Piro clarified that there are no plans in the City's current work program to begin the Ballinger Study Area. He asked where the closest commercial node to the subject property is located. Mr. Pyle said two commercial areas are located near the subject property. To the north is 205th, which is an enormous retail facility. To the south is the North City business district. These are both located within ½ to 1 mile of the subject property.

Vice Chair Piro asked what options there might be for development if the property were identified as a mixed-use land use. Mr. Stewart said that if the Comprehensive Plan land use designation were mixed use, the R-24 zoning designation that is being proposed would be allowed. Vice Chair Piro voiced his concern that this is an intense area that is used for a single type of use. This creates a pattern where access to anything else would require automobile trips. He said he is looking for opportunities within this district to create a more mixed-use environment. Mr. Stewart said all of the special study areas have this same characteristics, and the hope is that they will be able to bring in the community to discuss where they might be able to intensify the land uses without injuring the existing character of the community. But in this case, the proposed action would resolve an issue of spot zoning that was inherited from King County. Mr. Pyle said that during the reconciliation process, this parcel would have been adopted as a higher density. But because it was frozen into the Ballinger Special Study Area, it was locked into its current status.

Commissioner McClelland questioned how the applicant would be able to get five units on the subject property and still provide space to meet all of the required parking and preserve the view of the surrounding properties. Mr. Maul submitted a preliminary map of one possible development concept for the subject property, which shows five units being built on the site with parking on the lowest level. It was entered into the record as Exhibit 4. Mr. Maul pointed out that the elevation of the 3-story condominiums that are located to the west is about ten feet higher than the subject property. Any development on the subject property would only come up to the second story of the existing building to the west.

Janet Way, 940 Northeast 147th Street, said she is speaking on behalf of the Sno-King Environmental Council and Echo Park. She expressed her concern about the cumulative impact all of the rezones would have to the environment. She asked that the Commission particularly consider the cumulative impact on McAleer Creek, which is the same watershed that would be impacted by any development that takes place at Echo Lake. While this is just a small development, it is only about ½ block from McAleer Creek, and there was a recent development put in on the other side of McAleer Creek where the property was cleared all the way to the buffer of the critical area. They should consider the negative adverse impact of continuously permitting more and more larger development along the watershed. Again, she said it is unfortunate that as the rezones are being considered, the applicants are not required to provide details about the proposed site design and the stormwater detention that would be required. She also expressed her concern about the Commission holding a public hearing now and then waiting to conduct their deliberations until the appeal on the Echo Lake proposal has been resolved. This also makes it difficult for the Commission to consider the cumulative impacts of development in the City.

COMMISSIONER BROILI MOVED THAT THE PUBLIC HEARING BE CLOSED. COMMISSOINER SANDS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

7. REPORTS OF COMMITTEES AND COMMISSIONERS

None of the Commissioners provided additional comments during this portion of the meeting.

8. UNFINISHED BUSINESS

Commissioner Hall reminded the Commissioners of the upcoming retreat that is scheduled for March 10th. He said there would likely be more things to talk about than time would permit. Commissioner Kuboi agreed and suggested that prior to the retreat, the Commissioners should identify the exact topics that want to discuss. Commissioner Hall indicated that staff would circulate a draft agenda to the Commissioners for comment prior to the next meeting. The intent is to use the Commissioner's comments to come up with a final list of agenda items that could be discussed within the four-hour allotted time period.

Commissioner MacCully said he previously suggested that not only should the Commission have a honed agenda for the retreat, they should also collectively agree to allow the facilitator to hold them to the agenda.

Mr. Stewart pointed out that the retreat would be advertised as an open public meeting, and seating would be available for the public to attend. However, no public comment would be allowed.

The Commission discussed the best way to handle unruly speakers and maintain control of the Commission meetings. Mr. Stewart shared the City Council's method for handling unruly situations. If a City Council Member feels that a situation has gone too far, the member can choose to move for a recess. If there is a second and a majority vote, the Council recesses for a period of time. The Planning Commission could use a similar method.

Chair Harris said he wants the citizens to feel like their comments are worthwhile, and that the Commission is interested in working with them. The Commissioners concluded that Chair Harris has been doing a good job of keeping the meetings under control, while still allowing the citizens to express themselves.

9. NEW BUSINESS

Commissioner Hall suggested that the following three items be considered for inclusion on future Commission agendas: a discussion of the advantages and disadvantages of issuing a notice for public hearing prior to the expiration of the SEPA appeal deadline, a discussion about "sidewalks that lead to nowhere" and alternatives to providing connectivity of sidewalks in the City's pedestrian network through impact fees, etc., and a discussion on the possibility of the Planning Commission initiating a docket request to replace the Ballinger Special Study Area and other special study areas with land use

designations that are more meaningful. He emphasized that all three of these topics would have a lower priority than any quasi-judicial proceedings, the critical areas regulations and the cottage housing provisions.

Commissioner Kuboi agreed that each of the three topics suggested by Commissioner Hall could be added to the backlog of issues the Commission wants to discuss. But the priority of issues such as this should be discussed further at the Commission Retreat. If the Commission is going to consider the backlog of possible topics of discussion, he would like to look at a holistic list rather than just the issues that have been raised recently.

Regarding Commissioner Hall's concern about noticing a public hearing prior to the expiration of the SEPA appeal deadline, Mr. Stewart explained that the City Attorney advised that the Echo Lake proposal would be a legislative matter, and that the SEPA Determination would not have an administrative appeal to the Hearing Examiner. However, after the hearings had been scheduled, the attorney changed his opinion and required the City to issue the corrected notice and corrected SEPA Determination, which included an administrative appeal. Normally, the City would not have scheduled the public hearing until after the SEPA appeal period had expired.

10. ANNOUNCEMENTS

No announcements were made.

11. AGENDA FOR NEXT MEETING

Mr. Stewart announced that a public hearing on the draft critical areas ordinance is scheduled for March 17th. Staff would propose about six additional changes.

12. ADJOURNMENT

The meeting was adjourned at 10:05 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

CITY OF SHORELINE

SUMMARY MINUTES OF
SHORELINE PLANNING COMMISSION
SPECIAL MEETING

May 4, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT
Chair Harris
Vice Chair Piro
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili (arrived at 8:10 p.m.)

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT
Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

Chair Harris called the meeting to order at 7:03 p.m.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners Kuboi, Hall, McClelland and Phisuthikul. Commissioner MacCully and Sands were excused. Commissioner Broili arrived at 8:10 p.m.

3. TYPE C QUASI-JUDICIAL PUBLIC HEARING ON THE ECHO LAKE CONTRACT REZONE APPLICATION (FILE NUMBER 201372)

Chair Harris reviewed the rules and procedures for the public hearing. He emphasized that the Commission would only accept general testimony regarding the rezone application and not the SEPA appeal. The hearing regarding the SEPA appeal is scheduled to take place on May 5th. He reminded the

Commissioners of the rules regarding the Appearance of Fairness Law and also briefly reviewed the agenda for the hearing.

Chair Harris opened the public hearing and asked the Commissioners to disclose any communications they may have received about the subject of the hearing outside the hearing. Commissioner Hall disclosed that several weeks ago, prior to the Commission's deliberation on the site-specific Comprehensive Plan amendment for the subject property, he had dinner at Spiro's. While there, he asked the owner, Evan Volts, about the Fred Meyer remodel project and the impact it would have to his business. They also discussed the Gateway Project, and at that point Mr. Volts indicated that he was a partner with Harley O'Neil on the Echo Lake proposal. Commissioner Hall said at that point he indicated to Mr. Volts that this was the subject of a pending quasi-judicial hearing and he could not discuss the issue any further. No substantive discussion regarding the Echo Lake application took place. Members of the audience raised no Appearance of Fairness concerns.

Staff Report

Ms. Lehmberg reviewed the staff report for the proposed contract rezone for property on the south shore of Echo Lake from High Density Residential, R-48, and Regional Business (RB) to Regional Business with Contract Zone (RB-CZ), allowing for a mixed-use development. She provided a map illustrating the topography and location of the 30-inch drainage pipe that is about 20 feet deep on the subject property. She noted where the pipe discharges water into the lake. She also pointed out the location of a catch basin system that flows south through the subject property, catching site drainage and hooking up with the larger pipe that drains into the lake.

Ms. Lehmberg advised that the current zoning would allow the development of up to 240,000 square feet of commercial space and up to 357 housing units. The proposal for the contract zone would limit the intensity of development to 182,000 square feet of commercial space and 350 housing units. She explained that the purpose of the rezone is to allow for mixed-use development, which would be difficult to do with the split zoning that currently exists on the site.

Ms. Lehmberg referred the Commission to a conceptual site plan of the proposal, which identifies Echo Lake as a Type II Wetland. She noted that the applicant is proposing a 115-foot wetland buffer. Next, she referred to an elevation drawing of the proposed development, which includes structure parking and very little surface parking on the property. She explained that the proposed RB-CZ zone would allow development up to 65 feet in height, and the existing R-48 zone also allows development up to 65 feet in height with a Special Use Permit.

Ms. Lehmberg advised that, currently, the western portion of the site is designated in the Comprehensive Plan as Mixed Use, and the eastern portion as High Density Residential. However, on April 21st the Planning Commission recommended that the City Council approve a proposal to change the land use designation for the High Density Residential portion of the site to Mixed Use. If the City Council approves the change, the rezone would be compatible with the Comprehensive Plan. She pointed out that there is also a strip of property on the site that is designated as Public Open Space. The Planning Commission has recommended that this designation remain as is.

Ms. Lehmberg referred the Commission to the conditions staff is recommending for the rezone. She noted that the applicant's proposals in the initial application included some of the proposed conditions. In addition, the staff reviewed the comments that were voiced by the public and the Planning Commission regarding the proposal.

Ms. Lehmberg reviewed that if the application were approved, the zoning designation would be Regional Business with Contract Zone (RB-CZ). The uses and design of the property, including but not limited to provisions for critical areas, off-site improvements, site grading and tree preservation, landscaping, stormwater control, and dimensional and design standards, shall comply with provisions for mixed-use developments in the RB zoning district as set forth in the Shoreline Municipal Code (SMC). She said staff understands that the proposal has changed since it was originally submitted, and City Hall is no longer a part of the proposal. As a result, the applicant has presented some alternatives to the conditions that have been proposed by staff (Attachment J in the Staff Report). She reviewed the staff's proposed rezone conditions as follows:

A. **Site configuration and uses shall generally comply with the site plan submitted with the application (Attachment C).**
B. **Residential density shall be limited to 350 dwelling units, 40 percent of which shall be affordable to middle and low-income residents.** Ms. Lehmberg noted that this condition was part of the original application, and there were also a lot of public comments about the displacement of the existing trailer park that currently provides low-income housing.
C. **Commercial floor area shall be limited to 182,000 square feet.** Ms. Lehmberg reminded the Commission that this condition was proposed as part of the original application.
D. **The housing development shall be required to provide a minimum of 420 parking spaces within the structures.**
E. **The commercial developments shall be required to provide a minimum of 600 parking spaces within the structures.** Ms. Lehmberg explained that the minimum parking space requirements are intended to encourage structure parking under the buildings. They are also intended to discourage a strip mall type of development.
F. **A parking reduction of up to 20 percent from the maximum required by SMC 20.50.390 would be allowed pursuant to SMC 20.50.400.** Ms. Lehmberg advised that a parking reduction would be allowed because of the site's proximity to transit. The site is less than ½ mile from the Metro Transit Center.
G. **The upper floor "step back" on the north sides of the buildings abutting Echo Lake and the sides of the building facing the common open space shall be required to allow sunlight into the open space. Each floor shall be setback 10 feet further than the floor below.** Ms. Lehmberg said staff proposed this condition to address the concerns that were raised regarding the scale and bulk of the buildings. Concern was expressed that 65-foot high buildings could cast shadows on the open space.
H. **Maximum impervious surface allowed on the site shall not exceed 90 percent. The open space area required for 100 feet of the wetland buffer shall not be included in this calculation.** Ms. Lehmberg said that normally, the City would not exclude a wetland buffer from an impervious surface calculation. However, staff proposed the condition based on a lot of public comment and

concern about the amount of impervious surface that would be allowed in an RB zoning district. Staff felt the proposed restriction would encourage a little more pervious area throughout the development. This is a large site, and tree retention and landscaping is something the City wants to encourage.

I. **The provisions of SMC 20.50.350(B) shall not apply to this site outside of the wetland buffer. An approved habitat restoration plan must be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site.** Ms. Lehmberg advised that staff is proposing that the SMC's provisions regarding tree retention not be applied to the site because of the design configuration proposed on the site plan. In exchange for allowing the removal of more trees than normal, a habitat restoration plan would be required for the wetland buffer.

J. **Vermin abatement shall take place prior to and during demolition and decommissioning of current site.**

K. **Stormwater treatment: At a minimum, Level 2 water quality and stormwater detention are required for development, in accordance with the SMC and the King County Surface Water Design Manual, as adopted by the City of Shoreline. Additionally, the developer shall consider working with the City to install an oversized stormwater system to further improve Echo Lake water quality, including the possibility of adding a water feature and open watercourse as the means of discharge into the lake.** Ms. Lehmberg said this condition would require that any surface water on the site be detained and any pollution generating surfaces such as parking lots must have water quality devices installed. Any runoff from impervious surface on the site would be detained and treated before being allowed to run off the site.

L. **Green Buildings: The developers shall consider pursuing a Leadership in Energy and Environmental Design or BuiltGreen certificate for the buildings in the project.** Ms. Lehmberg advised that staff wants to encourage the developer to pursue an environmental design by using low-impact development.

M. **Any SEPA mitigation measure will also be a condition.** Ms. Lehmberg advised that the SEPA threshold determination that was issued by staff was appealed. This determination required screening from the adjacent single-family development on the lake and was based on concerns raised by the public about an increase in the amount of traffic associated with the proposed project.

Ms. Lehmberg reminded the Commission that the purpose of the public hearing is for the Commission to accept public testimony on the rezone application, only. The Hearing Examiner would accept public testimony regarding the SEPA appeal on May 5th. She pointed out that anyone might testify before the Commission regarding the rezone application. However, testimony to the Hearing Examiner regarding the SEPA appeal would be limited to the applicant, appellants, expert witnesses and staff.

Mr. Stewart referred the Commission to the memorandum he forwarded to them dated May 4th. He explained that just this afternoon, Mr. Derdowski, who is a representative of Echo-Par, met with City staff and presented a list of conditions that he stated had been agreed to with the applicant. He emphasized that the conditions would be in addition to those that have been proposed by the staff. Mr. Stewart pointed out that Condition 3 states that the owner intends to apply for a permit to construct a publicly accessible beach and dock, but this would not be allowed under the City's current development code. However, there is a proposal, under the Critical Area Ordinance, to allow for outdoor recreation. He advised that Condition 10 includes a provision that the stormwater plans comply with the

Department of Ecology Stormwater Requirements. He said this would be in addition to the City's stormwater design manual. This condition could result in a complex process to review for compliance with both of the manuals. Mr. Stewart said there are a few other instances in the proposed conditions where language might be considered a bit ambiguous and would probably be difficult to enforce; but on the whole, staff generally concurs with the conditions as outlined by Mr. Derdowski.

Applicant Testimony

Harley O'Neil, 18645 – 17th Avenue Northwest, provided a brief history of the subject property. He said that in the spring of 2002 he learned that the property was for sale, and he was immediately concerned that a developer would purchase the property and close off public access to the waterfront. He contacted several citizens of the community, asking for their help in purchasing and developing the property. Their intent has always been to leave the waterfront open for the public to enjoy. He said the previous property owner had the property for more than 30 years, but he was considered an absentee landlord who completely ignored the property. Mr. O'Neil said they closed on the property in December of 2002, but because of their concern regarding the condition of the property, they received permission from the owner to make some improvements 60 to 90 days before the deal had closed. They replaced roofs, painted all of the building exteriors, etc.

Mr. O'Neil said that after his group purchased the property, he met with representatives from Legacy Partners, a company based out of California, who presented a rendition of the type of development they would like to see on the subject property. Their proposal included condominiums, apartments, two or three retail buildings, a park area and public access to the waterfront. He said this was his first attempt to find someone to purchase the property from the partners. Mr. O'Neil advised that after the partners purchased the property, the County notified them that their taxes would go up $20,000 more than the previous year. This was not expected, and they immediately realized they would not get a return on their investment.

Mr. O'Neil explained that two strong parties (YMCA and City of Shoreline) expressed an interest in relocating to Echo Lake on the subject property. He noted that there was not enough property along Aurora Avenue that was zoned RB to accommodate either of these two party's needs. They conducted a design charette to come up with ideas for placing a City Hall structure on the site if approved by the City Council and community, and the rezone proposal was submitted when the City Hall project was still under consideration for the site. The YMCA is still interested in locating on the subject property, but the current zoning does not provide enough RB zoned property to accommodate their needs. In addition, the applicants had hoped that the proposed rezone would allow them to draw people from the Interurban Trail to use the site. He noted that their goal has been to enlarge the community open space by providing parking structures instead of surface parking. The proposed rezone would also allow them to develop retail space to provide amenities for people using the Interurban Trail. The current R-48 zoning designation would not allow these types of uses. Mr. O'Neil said he also has an interest in trying to attract a nice restaurant to the site. Right now, there are good restaurants in Shoreline, but none that are really special. A restaurant near the lake could serve that need.

H. Troy Romero, Romero Montague P.S., 155 – 108th Avenue Northeast, Suite 202, Bellevue, 98004, said the applicants recently retained his services to review the proposed changes to the rezone

conditions identified by City staff. He said it appears that when the original application was submitted, there was a proposal on the table that included a YMCA, City Hall and other mixed-use development. Obviously, this has changed. He said it is important to note that when the community initially reviewed the proposal during the SEPA process, a particular configuration was proposed. The conditions that are now being recommended by the staff are not necessarily consistent with the initial staff report or the project that was discussed with the community. Mr. Romero reminded the Commission that the issue before the Commission is not whether or not the rezone should be granted since the staff is recommending approval and the community has offered their support.

Mr. Romero noted that the property's current zoning designation would allow 244,000 square feet of commercial and 357 residential units, and the proposed rezone would actually decrease the density of the subject property. This would be advantageous to the community. He pointed out that if his clients cannot make the proposed project financially feasible, they could go back to the existing zoning designation. He reviewed each of the conditions proposed in the Staff Report and provided the applicant's thoughts on each as follows:

A. Mr. Romero said the applicant is recommending that the word "shall" be changed to "may" or "shall use its best efforts." He explained that while the project is well on its way, one of the advantages of the proposed zoning is to allow flexibility for the developer to create a project that is good for the community, economically feasible, etc. Once the word "shall" is attached to the contract rezone, the City would effectively dictate the project. He noted that one of the design architects has come up with a way for creating a view corridor off of Aurora Avenue to Echo Lake. This plan would create more pervious surfaces and open space, as well. If the staff's recommended conditions are approved as written, opportunities such as this might be prevented. He suggested that this would be inconsistent with the proposed zoning.

B. Mr. Romero said the applicant does not have an issue with this condition that would limit the development to 350 residential units. However, concern has been raised about the language that was added to the condition requiring that 40 percent of the units be affordable to middle and low-income residents. He said this requirement could result in the project no longer being feasible. He explained that the original plan was to provide senior housing on the subject property, but it has since been determined that the property would probably not qualify for this type of housing opportunity. He noted that no language was considered in the SEPA review to require the project to have 40 percent low or moderate-income housing. He strongly suggested that this provision be eliminated from the condition. Another option would be to use the words "may" or "seller shall use its best effort." This would allow flexibility for the project to be financially feasible.

C. Again, Mr. Romero suggested that the word "shall" be replaced with "may" or "seller shall use its best effort." He explained that because City Hall is no longer part of the proposed project, there would be potential ebb and flow with respect to the project as staff works with the applicant. There may be a desire to have more commercial than residential, etc. Without flexibility, the applicant and staff would be limited in what they could do with the project.

D. Mr. Romero pointed out that staff's recommendation is based on the original proposal that included City Hall. Perhaps even more difficult, if not financially impossible, is that one could make an argument that all the parking spaces must be constructed before a building permit could be issued. He referred to Attachment J of the staff report, which is a letter from Mr. O'Neil dated March 28th.

In his letter, Mr. O'Neil suggests that rather than binding the City staff and the applicant to a set amount of parking spaces before they know what the final configuration will be, the language in the conditions related to parking should be changed to make the parking requirements consistent with the existing SMC. This would allow the applicant to proceed as would be allowed for any other form of development as long as adequate parking could be provided.

E. See Mr. Romero's comments for Condition D.

F. Mr. Romero indicated that the applicant does not have any concerns related to this proposed condition.

G. Mr. Romero said the concept of this condition is to create ten-foot "step backs" as the development goes up each level. With a five-story building, this condition would effectively create an "Aztec pyramid" design. He suggested that not only would this create an aesthetic issue, but this type of design is not used anywhere else in the City. In addition, this proposed condition was not included as part of the SEPA review process. He suggested that the word "shall" should be replaced with "may" or "applicant shall consider." This would indicate the City's desire, but would not limit the applicant to this design. Again, he reminded the Commission that flexibility is important both to the City and to the applicant.

H. Mr. Romero said the staff correctly pointed out that, normally, the City counts all existing square footage in a project to determine the amount of impervious surface allowed. However, staff is recommending that the contract rezone go against the City's normal practice and exclude the 115-foot buffer area when calculating the amount of impervious surface allowed for the development. He questioned the rational basis for this condition, and he noted that this was not included as part of the original SEPA review process. He noted that even if the City were to count the wetland buffer, the proposed site design would still have about 85 percent impervious surface. Again, he recommended that the word "shall" be changed as previously recommended.

I. Mr. Romero said the applicant does not have any concerns related to this condition.

Mr. Romero thanked the Commission for allowing him to address the conditions that have been proposed by the staff. He said that sometimes wordsmithing can be considered an unimportant exercise, but having spent five years on the City Council of another jurisdiction, he is aware of the challenges that words can sometimes be. In this case, he suggested that if the Commission recommends adoption of the staff's recommended conditions exactly as proposed with the mandatory "shalls," they will run into problems in the future.

Commissioner McClelland asked if Mr. Romero reviewed the 13 new conditions that have been proposed by the staff. Mr. Romero said he did not receive the new document until he arrived at the meeting, so he has not reviewed the final version and cannot provide comments. Commissioner McClelland noted that all of the new proposed conditions start with the words "the owner will," which means the same things as "shall." Mr. Romero pointed out that the word "shall" by itself is not necessarily a bad thing. Terms such as "shall consider" and "shall work together" are appropriate, but if the City dictates that a condition is an absolute requirement, there would be no flexibility allowed.

Vice Chair Piro said he appreciates the applicant's sensitivity to providing some flexibility, particularly since changes have been made to the project over time. However, he said that in his view, the applicant's recommendations would change the staff's recommendations from conditions to mere

guidance and would no longer have the status of what is intended by the City when they place conditions on a rezone application. Mr. Romero explained that the concept behind the proposed RB-CZ zoning recommendation is that the City and the developer could work together to make the project mutually beneficial for everyone. In this case, there is an application for a rezone that has gone through the SEPA process and public hearings. Now new conditions are being attached to the rezone application that would be obligatory. He argued that since these conditions were not subject to public opinion during the SEPA review process, perhaps the Commission should go back to the time of the original application. The conditions that use the word "shall" were never mandatory conditions as part of the SEPA review. The concept of the proposed rezone is to allow flexibility. Once the project design has been approved, then they could work out an agreement on the exact number of stalls, impervious surface, etc. He agreed that the applicant's proposed changes would significantly lessen the mandates found in the conditions, but he pointed out that the staff report already includes recommendations that the applicant consider certain concepts. There is at least some precedence in existing negotiations for the idea of the applicant and the City working together. While his client does not necessarily disagree with the conditions, if they are mandatory there would be no opportunity for flexibility.

Vice Chair Piro inquired if there would be an opportunity for staff to revisit the conditions and come up with something that would allow a range of options and keep to the spirit of what the conditions are intended to do without weakening them to the point of being wholesale and discarded. Mr. Stewart answered that the applicant has provided two responses to date. One was provided on March 28th (Attachment J) in which he suggested alternate language for the conditions proposed by staff. Now the applicant has presented a new proposal to further amend the conditions. He said staff's recommendation of approval was based upon their recommended conditions. If the Commission wants to further amend or adjust the conditions, this would be within their discretion to do during deliberations. However, there would come a point where the project would change so dramatically that it would require a new notice and perhaps a new SEPA review. The other factor the Commission should keep in mind is that the contract rezone is an agreement between the City and the applicant. If the applicant chooses not to agree with the conditions, then the contract rezone would no longer be valid. If that is the case, the applicant might as well withdraw the application at some point and come back in with a new proposal. Mr. Stewart pointed out that the applicant proposed most of the conditions recommended by the staff. The two or three that were added were in response to concerns that were raised by the community in the comment letters or they were intended to make sure that the actual development is close to what is being proposed. He concluded by stating that there comes a point where the balance gets tipped, and they are no longer reviewing the project that has been appropriately noticed.

Chair Harris said that given the new proposals that are being presented to the Commission, he suggested that they move forward with the public hearing. Since the public hearing would be continued to May 5th, perhaps staff could do some investigation of ways to address some of the new proposed conditions that have just been presented to the applicant.

Commissioner Hall noted that Mr. Romero has encouraged the Commission to stick to the standard code requirements in some cases. He asked if this recommendation would also apply to the tree retention ordinance, where staff has proposed that the normal requirements for tree retention be waived. Mr. Romero answered that the code requirements would work fine with regard to tree retention. However,

his understanding is that the community and staff have indicated that there are certain significant trees within the 115-foot buffer. The concept is to allow the applicant to remove certain trees that are located within the buffer.

If the Commission were to change the "shalls" to "should" and the applicant ends up facing financial difficulties or site constraints that were not anticipated, Commissioner Hall asked what assurance the public would have that the conditions would be legally enforceable. Mr. Romero said there is a contractual provision that requires the applicant and the City to work together on the whole design/build process. The applicant would still have to obtain the necessary building permits, etc. so quality control would lie with the staff as they go through the building permit process.

Commissioner Kuboi asked if the YMCA would eventually own their portion of the property. If so, would the terms of the contract rezone be carried forward to subsequent owners of the property? Mr. O'Neil answered that the YMCA would purchase a portion of the property for their building, and an association would be formed of those people that have ownership of parcels. The association would maintain the common areas. Commissioner Kuboi noted that the applicant has offered to guarantee lake access to the public in perpetuity, but he is unclear how the applicant's proposed conditions would accomplish this. Mr. O'Neil said the property identified as public open space would create an access for the public to the waterfront. Development would not be allowed in the open space area. Consequently, the open space would remain open, and their site plans identify an area at least 40 feet wide between the property line and the structure. Their hope is that Stone Avenue could be used to provide handicap access or other access to the subject property and the open space, as well.

Mr. O'Neil emphasized that there is no intent to remove any of the trees from the buffer. Naturally, if there are trees in the location of the proposed YMCA building, they would like to be able to remove them.

Mr. Stewart explained that the subject property is one single parcel and has not been divided. If the applicant were to divide the property, it would either go through site plan process or condominium type regime. Access to the lake is not a condition of staff recommended approval of the rezone application, neither is it proposed as part of the alternate conditions presented by the applicant's representative. If that is the intent, perhaps that should be a new condition added to the contract rezone. Mr. O'Neil said he would be pleased to exchange this condition for the condition that would require him to put in 1,020 parking stalls under a building. He said he looked around Shoreline to determine the number of projects where someone even attempted to put parking under the building. The City believes it would cost $15,000 to $18,000 per stall to construct underground parking. Therefore, the staff's condition would require them to spend $15 to $18 million on parking before they could start building any of the project. If this were a requirement of the rezone, they would sell the property and leave it. Mr. O'Neil said staff has asked him at least three times if he wants to withdraw his application, and this really bothers him. They are trying to do a project for the benefit of the community, and he wished they could get everyone on board to accomplish the task.

Commissioner Kuboi inquired if there is a type of appeal process for the public to follow if they feel that the terms of a contract rezone have been violated. Mr. Stewart said this would be considered a zoning

violation, and there is a legal process for enforcement of the zoning code. Commissioner Kuboi asked if the developer would be required to stop work until the issue has been resolved. Mr. Stewart answered that this would depend on the nature of the zoning violation. If it were a violation of a permit, the permit could be withdrawn. Another option would be for the City to issue a stop work order with penalties assessed.

Commissioner McClelland reminded the Commission that the 50-foot strip of land that is and would continue to be designated and zoned as public open space is privately owned and there is no public access to the property unless the City figures out a way to buy it and grant public access.

Commissioner Kuboi requested a definition for "low to moderate income." Mr. Stewart said this term is defined in the City's development code and has to do with the proportion of income that is spent on housing in relation to housing costs. He pointed out that the proposal for affordable housing was part of the applicant's original submittal and was not proposed by staff.

Vice Chair Piro inquired if there is other instances where the City has calculated the break down of low and moderate-income housing as part of a project review. Mr. Stewart said that since the development code was adopted in 2000, he is not aware of any developments that have utilized this provision, but there have been discussions by other developers about using the affordable provision in the future.

Public Testimony or Comment

Robert Scott, 1132 North 195th Street, said he and his wife own three properties on Echo Lake, two bordering the lake and one set behind the other two. He pointed out that Mr. O'Neil purchased the property knowing what the current zoning was, and he should adhere to the current zoning. If the applicant gets into financial difficulty, the property could be sold. If it is rezoned to regional business, the new property owner would be able to develop anything they want including night clubs, casinos, etc. There is business zoning along Highway 99 and approval of the proposed rezone would be a disservice to the surrounding property owners because, with the exception of a few small offices, all development on the lake is either single-family or multi-family residential. He said that while they are glad to see that the trailer park would be eliminated, they would like the property to remain for residential uses.

Pat Scott, 1132 North 195th Street, said she and her husband have lived on Echo Lake for 60 years, and her grandparents bought the property in 1912. She loves the lake and feels that it is a wonderful, natural resource. She said she does not want development around the lake to cause further deterioration of the lake. The more building that goes on, the more damage is done to the quality of the water. She said she is concerned about the proposed high-rise structure that would be built on the site. While it is good that the buffer area would remain, it saddens her to see what has taken place in the last ten years as a result of stormwater runoff. She pointed out that Echo Lake is a "dumping ground" for everything off the roads and parking lots. They have a little island on the southwest corner of the lake as a result of the debris that filters in this location. Whatever is developed on the site, all projects should be considerate, since everyone should be a steward of the City's natural resources.

Virginia Paulsen, 16238 – 12th Northeast, said she just learned about the agreement that Brian Derdowski and Harley O'Neil negotiated when she arrived at the meeting. She said there is too much in the document for her to comment on all of her issues. She said Mr. O'Neil indicated that he purchased the property in the spring of 2002 because he was afraid that developers would build in such a way that the site would be destroyed. She pointed out that Mr. O'Neil is a developer, and there have been a great deal of comments, both positive and negative, about his development proposals. She suggested that the Commissioners ask themselves why Echo Lake is being called Echo Lake. It is because it sits in an amphitheatre. Therefore, the area on the north boundary (192nd Street) looks down on the subject property. This means there would be a lot of noise created by the proposed project. She said the proposal for development would create the equivalent of a small city on the site, and in her opinion, this would result in major problems.

Ms. Paulsen referred to the proposed staff conditions and asked the Commission to note the number of items that are starred to indicate that the applicant has proposed alternatives. Nearly all of the staff's proposed conditions are subject to the applicant's proposed alternatives. The applicant is now proposing that the "shall statements" be watered down. She referred to the negotiated contract between Brian Derdowski, Janet Way and Harley O'Neil, and said that given the propensity to eliminate these incentives by the proposed alternatives, there would be no guarantee that the items in the agreement would be recognized. She said that while Mr. Derdowski has represented himself quite well, he does not represent her views and she does not want to drop her SEPA appeal. She concluded by stating her belief that too much information was presented just prior to the hearing for her to digest and provide comments on at the last minute.

Commissioner Broili arrived at the meeting at 8:10 p.m.

Barbara Lacy, 19275 Stone Avenue North, said she first visited Echo Lake in 1958 and purchased a house on the lake in 1960. She said she has learned to live with the public using the lake in front of her house. Now suddenly, instead of the quiet, passive park, there is a possibility of having a beach again and perhaps fishing at the south end. This causes her to reconsider based on the comments provided previously by Mr. O'Neil. She said it is thrilling to her when people go past her backyard in their kayaks, and she is glad that people are able to enjoy the lake. However, she said she now has to adjust from her sense of a quiet lake to a lake that is used again. She said she recently learned that a "primary contact recreation use" would include activities such as swimming, water skiing, skin diving, etc. A "secondary primary contact recreation use" would include activities such as wading and fishing, but not swimming. However, the staff report talks about the extraordinary primary contact recreation that takes place on the lake now. She suggested that there is confusion about what uses should and could be allowed on the lake and how the lake could be protected as a critical area. She said that when she read through the staff report, she did not realize they were considering the creation of a beach again. She suggested that many things must now be reconsidered.

Ms. Lacy referred to Mr. O'Neil's suggestion that Stone Avenue could perhaps be used for handicap access. She said she lives on Stone Avenue, and this is supposed to be a private road that is owned by Seattle City Light. Any access would have to be negotiated because the homeowners along this street

have no garages. Access to the lake is a big concern, and a lot more issues must be considered before a decision could be made in that regard.

Michael Trower, 2077 East Howe Street, Seattle, 98112, said he is a development consultant and an architect by background. He said his company made a conscious decision, at that time, to provide some development assistance to Echo Lake Associates primarily because of the civic goals they were trying to accomplish with the project. He referred to the previous discussion about the condition that would require setbacks on a building that is yet to be designed. He said this type of condition could become very project specific and the request for a rezone is not project specific. In his view, this condition was established to limit the amount of development so that the City's interest would be protected in the process. The intent was not to provide a specific project.

Mr. Trower said his company is quite used to designing and developing projects according to published urban design guidelines, and the City of Shoreline has these guidelines in their municipal code. He said his assumption is that the guidelines were arrived at by public hearings and statements of policy and are intended to guide the design of any project. He referred to the condition that would require a 10-foot step back for each floor and suggested that this would be very project specific and out of context with the urban design guidelines that were duly considered. The condition would also be out of context with development that might occur on the site.

Next, Mr. Trower referred to the condition that would require a certain percentage of the housing units to be low or moderate income. He said he participated in writing the SEPA submittal, which stated that they expected a portion of the housing to be affordable to low and moderate-income households. That statement was true, and that is what they expected to occur. One of the civic goals of the development was mixed income living on the site. However, what they expected might happen with senior housing no longer appears to be feasible. He said his firm does affordable housing on a regular basis, and it takes a lot of subsidies to accomplish this goal. The applicant considered the feasibility of getting subsidies for the subject property, and it appears that this would not be a very real possibility because all of the funding entities require local, municipal participation. While the applicant's intent was to provide low to moderate-income housing, making it a requirement would be extremely difficult and probably impossible for the applicant to meet under the existing circumstances.

Ken Lyons, 17533 – 47th Avenue Northeast, Lake Forest Park, 98155, said he is a business owner in the City of Shoreline. He said he assisted Echo Lake Associates with preparing the initial documents that were submitted for the rezone. He said he has always had a lot of enthusiasm about the idea of being able to take a split-zoned property and create a project that is unified in its design and more than what was possible under the current zoning configuration without increasing the overall density. That is why he got involved in the project. He said he was quite surprised to find out the conditions of approval that were recommended by the staff. He disagreed with the staff's statement that the conditions of approval that are in the Staff Report are items the applicant suggested. He clarified that the condition the applicant proposed as part of the original application was that instead of 240,000 square feet of commercial development, they would be limited to 182,000 square feet. In addition, instead of 357 housing units, the applicant proposed to limit the number to 350. He said all of the other conditions are project specific, and the application is not intended to be project specific. He pointed out that further on

in the process there would be other opportunities to address concerns raised by the public and the staff. For example, another SEPA process would be required for the building permit, and issues such as sunlight in the buffer area would have to be considered. He concluded that the conditions the Commission should focus on at this time are the overall development limits and not conditions that could end up hindering a project and have an unintended impact on whether or not the proposal comes together.

Pat Crawford, 2326 North 155th Street, emphasized that Brian Derdowski is not representing her interests. She is being represented by Michele McFadden, and they do not agree with dropping the SEPA appeal. She suggested that the public should have an opportunity to review and comment on the agreement proposed by the applicant and the group known as Echo-Par, as well as the changes the applicant is recommending for the staff's proposed conditions. She said she is part of the Echo-Par group, yet she just received a copy of their agreement with the applicant today. She said she thought the purpose of the public hearing was to address the rezone application. She said she does not believe the City should be doing any site plan approvals at this time. She said the zoning analysis that was done appears to be complete, and the conditions related to the number of units allowed and parking spaces required should be approved. But placement and design of the development is still so up in the air that the Commission should avoid approval of conditions related to that issue.

Ms. Crawford suggested that proper classification and mapping needs to be done of the environmental features. There are watercourses and their buffers that need to be clearly identified. She said the homework should have been done on the site before they purchased the property, and at least before they went on to the second and third design phases. She stated that the site and not the desires of the developer should dictate the design when sensitive areas are involved. She said she supports the 100-foot buffer requirement and the additional 15-foot setback that has been proposed. But she suggested that this area be naturally reclaimed. Boardwalks could be installed so there would be no further compaction and erosion from traffic. This would allow many people to access the lake without causing further damage. She pointed out that the Gaston property has been left open for five years and there are 20-foot cottonwoods already growing. She said she does not believe in fancy habitat restoration, and a better option would be to rope off the 100 feet and let nature reclaim itself.

Ms. Crawford expressed her belief that the tree evaluation that took place as part of the proposal was insufficient. She said they must identify all of the trees that could be saved. She said she believes the agreement that was submitted by Mr. Derdowski and Ms. Way could end up weakening the code in a lot of places. She urged the Commission to stick behind the code. Adding the other conditions just muddies the whole issue. She said it is not the appellant's job to help with the design of a project. But they should, instead, let the applicants know what the code requirements are and where they could look for guidance.

Tim Crawford, 2326 North 155th Street, said he, his wife and his brother-in-law are also members of the group known as Echo-Par. However, they were totally shut out of the process that Mr. Derdowski and Ms. Way garnered with the applicant. He said he appreciates Mr. O'Neil's comment that everyone needs to get together on the issue, but he finds it kind of disingenuous. The applicant has had plenty of time to work with them and their lawyer regarding this issue, but he has not done so. He said neither he,

nor his wife or brother-in-law, Dave Conlow, would have signed off on the agreement. He referred to the last few words of the first paragraph of the agreement ("enables the achievement of the owners' financial objectives"). Mr. Crawford expressed his opinion that it is not the appellant's job to enable the achievement of the owners' financial objectives. The appellant's goal should be to require the applicant to adhere to the City's code requirements and to protect the environmentally sensitive areas. They have been shut out of the process because Mr. Derdowski has informed them that they cannot be dealt with. He said he takes large offense to Mr. Derdowski ignoring his constitutional right to take part in an unincorporated group. He said Mr. Derdowski and Ms. Way would soon find out that it is actionable that they have spoken for the whole group when there are no by-laws or rules for the group. It takes all seven members to concur with the conditions of the proposed agreement. Although he is a member of the group, he was just handed the agreement prior to the meeting. Therefore, he cannot comment further on the document. He said he knows of no other member that signed onto the agreement that contributed $200 to fund the group as he and his wife did. He and his wife were the major contributors to the financial effort of filing the appeal, so he takes large offense to being shut out the group's dealings.

Jim Abbott, 16218 – 6th Avenue Northwest, said he also owns business property at the north end of Echo Lake. He voiced his support for having the YMCA locate on the subject property. This would provide numerous benefits to the community. He said he believes the best way for the City to proceed with the proposal would be to require a binding site plan that deals with the issues and concerns that have been raised. He said he has done a number of projects over the years involving multiple ownerships with binding site plans and agreements to deal with the common areas, wetlands, etc.

Mr. Abbott referred to the staff's recommended conditions and suggested that the City should allow flexibility at this level. He suggested that it could be a mistake to require all of the conditions as proposed. For example, requiring that 40 percent of the residential units be affordable to low and medium-income residences could effectively prevent the project from going forward. He said he is just starting a multi-family project in Redmond, and they were only required to make 10 percent of the units affordable. He concluded that he believes the 40 percent requirement is too high. In addition, Mr. Abbott expressed his concern about the condition that would require more than 1,000 parking spaces. Since the intent of this condition is to require structured parking, Mr. Abbott suggested that rather requiring a certain number of parking spaces, they could simply require structured parking. Lastly, Mr. Abbott reminded the Commission that the City has a lot of opportunity down the road to control the development that occurs on the site. They can condition the building permit to address issues such as step backs, etc. He urged the Commission to allow for flexibility at this point.

Mike Marinella, 637 North 185th Court, said he has been a resident of Shoreline for the past four years. He said this is an exciting time for the City, and he is very excited to see that this particular property has an opportunity to be transformed from its former use into a very productive new use. He said that prior to living in Shoreline he lived in Edmonds on a street that was proposed as a possible exit point for a new development in Woodway, in which two developers proposed a 106-lot development on property that had been formerly owned by Chevron Oil. These developers met with extreme public resistance to the project and the hearings went on for two years. Eventually, the developers had to abandon a very creative, thoughtful and sensitive proposal because they could no longer afford to continue. They sold the property to the largest homebuilder in the State of Washington and the most

awful development has occurred on the property when it could have been the most gorgeous replication of what Woodway is. Now the people in Woodway are very sorry that they were so adamant in their opposition to what would have been a much-preferred project. He said he sees the same thing happening in Shoreline because it is difficult to balance the developer's needs, the City's needs and the public's needs. However, he suggested that projects such as this that involve a contract rezone are inevitably far better than the type of development that would occur if the process fails and the property is sold and developed according to its existing zone. This would prevent the Planning Commission from having any constructive input on what is eventually built. Mr. Marinella voiced his support for the proposed project because he thinks it would be far better than what they might end up with otherwise.

Brian Derdowski, 70 East Sunset Way, Issaquah, 98027, said a number of people in the community who have an environmental and neighborhood orientation have come to the conclusion that they want to have a positive outcome for this property. He said he speaks on behalf of four of the seven appellants in Echo-Par (Mamie Bollender, Richard Purn, Peter Henry and Janet Way). He emphasized that he would not speak on behalf of Tim and Patty Crawford or Dave Conlow.

Mr. Derdowski reviewed that some time ago the Echo-Park group filed a SEPA appeal to what they saw as a City Hall project, a purchase and sale agreement, a legislative land use amendment, a site-specific rezone and a contract rezone. They had some profound procedural problems with the proposal at that time. They had concerns about City Hall and conflicts of interest, and they also had substantive objections. Since the appeal was filed, two of the three primary objections have been addressed relative to the conflict of interest and other procedural objections. Therefore, they decided to focus on the substantive objections and did something that a lot of environmental groups do not do, they sat down with the applicant and established a trusting relationship with common goals. The first common goal is that they both want to have a true and balanced mixed use development. This is something that community groups around the country seek to achieve. Secondly, they did not want to have the kind of development that provides surface parking along Aurora Avenue. Instead, they wanted to have structured parking on the site. Third, they wanted to have a lot of public access; and fourth, they wanted state-of-the-art environmental protections for the magnificent lake, which is known as the headwaters of McAleer Creek. Finally, they wanted to demonstrate that a local developer and local investors could work with local people to come up with a good solution.

Mr. Derdowski said the contract they had to work with was the contract rezone, which was not easy to deal with. The original contract rezone was proposed when City Hall was being contemplated on the site, and that is what the applicants were thinking about when they put together the site plan and SEPA checklist. Over time, the project has changed into a proposal that is still a bit of a moving target. However, four of the seven appellants and the applicant have come up with a series of conditions, all of which exceed the City's existing code requirements and speak to the public interest. He distributed a copy of the agreement, which has been changed from the document that was delivered to the staff earlier in the afternoon. Commissioner McClelland inquired if Mr. Derdowski had copies of the document for members of the audience to review. Mr. Derdowski explained that he did not have copies for the audience. However, he asked that the Commission leave the public hearing open for a few weeks to allow the public to comment on their proposed new conditions.

Mr. Derdowski said that, with respect to the wetland, the applicant has agreed to use best available science to comply with the Department of Ecology's Manual, and the latest version has only been out for a few days.

Because Mr. Derdowski had reached the end of his five-minute comment period, the Commission discussed whether or not he should be allowed to continue. Commissioner McClelland pointed out that it would take Mr. Derdowski significantly longer than five minutes to review the entire agreement, and the Commission had not even had a chance to review the document yet. Commissioner Broili said he appreciates Mr. Derdowski's concern and his desire to address the issues. However, if the Commission were to allow him to proceed, they would open the door for everyone else wanting to do the same. He suggested that the Commission stick to the rules and timelines that have been established for the hearing. Commissioner Hall noted that after the Commission has accepted all public testimony, they have the opportunity to ask clarifying questions of all those who have testified. He suggested that once the public testimony has been completed, the Commission could recess for a few minutes to read Mr. Derdowski's document and then they could ask questions for further clarification. The remainder of the Commission agreed.

Mr. Derdowski pointed out that in a rezone application review, the Commission has a duty to construct the record in a quasi-judicial manner, and they have a higher burden than normal to make sure that the record is full and balanced. If they permit an applicant to have unlimited time and they don't allow a similar consideration for the public, they could create the potential for an Appearance of Fairness problem. Chair Harris advised that the Commission would reserve the right to call Mr. Derdowski back for further questioning at the end of the public hearing.

Marlin Gabbert, 17743 – 25th Avenue Northeast, suggested that it is important that everyone work together to resolve the issues. They have an opportunity to create a good project, and the developer has indicated that he is sensitive to the needs of Shoreline. Those who have voiced opposition to the project have also indicated their willingness to work together. He said he believes that some of the conditions that have been recommended by the staff appear to be onerous. For example, requiring that at least 40 percent of the units be middle and low-income housing is unreasonable because they don't even know if this type of housing would be feasible for the area. He said it seems like the applicant is being required to place all of the parking underground or in structured parking. He suggested that there should be some surface parking for quick in and out customers of the retail space. While surface parking would not be precluded, the amount of parking that would be required for the site could preclude it.

Mr. Gabbert said he also is opposed to the condition that would require a ten-foot "step back" for each level of development. He suggested that this seems a little over zealous, particularly since it would apply to each floor and does not seem like good design sense. Also, Mr. Gabbert suggested that the Commission review the proposed condition related to tree retention. He said that in order to develop the site appropriately, they might not be possible to save any of the trees. The code allows trees to be removed and replaced with new trees so that projects can be designed as an urban setting. He encouraged the Commission's support of the project, with the recommendations that were submitted by the proponent's attorney.

Steve Dunn, 18251 – 13th Avenue Northwest, said he is the Board Chair of the Shoreline-South County YMCA. He asked the Planning Commission to work together with the applicants and the appellants to resolve the issues of concern. He said he has been involved in the process for about two years, as have a number of other people from the YMCA who are interested in building a new facility in the north end to serve up to 9,000 children as well as adults. He said he believes the intrinsic value of locating a YMCA on the subject property would be beneficial to the City of Shoreline, and there are a lot of people trying to work together to make the development happen. The YMCA Board totally understands and supports the environmental concerns that have been raised, but there has to be some way to make the project happen. He encouraged the Commission to work quickly to move the project forward. He reported that the YMCA would be kicking off a $70 million campaign starting later in the year, and if they don't hear that the project can move forward by June 10th, they would no longer be a part of the project. He expressed that the YMCA is ready to move forward, and a feasibility study has already been completed. He said four new facilities would be built in the area in the next three or four years, and Shoreline came up as the number one area in which residents are ready to give to build a new YMCA. There are a lot of people who want the project to move forward, and he encouraged the Commission to work with the cooler heads and do their best to make the community a little bit better place.

Matthew Fairfax said he is a resident and business owner in Shoreline. In addition, he said he sits on the Board for the YMCA. He echoed a lot of the sentiments that have already been shared with the Commission. He said he supports the proposed rezone and project for a lot of reasons, but the economic impact on the community, alone, is very important. He pointed out that, from being a spectator and just getting involved with the City in the last year, it is good to know that Janet Way, Brian Derdowski and Harley O'Neil have sat down and talked about their concerns in a positive and productive manner. He referred to questions that were raised earlier about some of the changes the applicant put forward regarding the word "shall." He said that, from his perspective, the difference is that the "shalls and wills" in the agreement that was presented by Mr. Derdowski were agreed upon jointly by the appellant and the applicant. The "shalls and wills" in the City's conditions were imposed. He asked that everyone work together to come to a conclusion that is beneficial for the developer, the City and the Community.

Michele McFadden, P.O. Box 714, Wauna, Washington, 98395, said she is the attorney for Tim and Patty Crawford. She said the issues the Crawfords have are actually the same as those expressed by the staff and Commission. The proposal has been changed and the conditions have not been adequately modified to reflect the changes. The question before the Commission is how they can procedurally do something with the rezone application when the site plan is not even the same as what they started with. They also need to recognize those conditions that should move forward and those that should not. She suggested that the burden is on both the staff and the applicant to identify the scope of the current proposal and what issues could be dealt with later.

Ms. McFadden specifically referred to the conditions that Mr. Derdowski negotiated with the applicant. She said that because the Commission and the citizens did not receive the document until they arrived at the meeting, as a matter of public process, the Commission should allow time for people to react. There are two different versions of the document and people have expressed two different opinions. Some feel

it is less restrictive than the City's code, and some think it is more restrictive. She suggested that it would be worthwhile for the staff to evaluate the conditions identified in the agreement and identify the difference between what is being proposed and what the code would require. There are a lot of design issues included in the agreement that are probably not sufficiently resolved at this point. The Commission must determine whether or not these issues need to be resolved before they can make a decision or if there is another process in which the public could be involved in the final design of the proposal. She said no one is saying that mixed use is not a better approach than piece-by-piece development. She said she would like to provide future comments on behalf of the Crawfords regarding the conditions that have been proposed by Mr. Derdowski and the applicant, and she asked how the Commission plans to procedurally deal with the public's response to the document. She suggested that they at least allow a window of opportunity for written comments on the changes.

Because no one else in the audience expressed a desire to address the Commission, the public comment portion of the hearing was adjourned for the evening.

Commission Discussion Regarding the Rules and Procedures for the Quasi-Judicial Hearing

Commissioner McClelland suggested that it would be appropriate for the Commission to deal with the procedural issues first so that everyone present would have a clear understanding of the process. She agreed with Ms. McFadden that the Commission should come up with a plan that would allow the public to respond to the document that was presented by Mr. Derdowski. She suggested that the Commissioners could read through the document before the hearing continues on May 5th and be prepared to talk about them. Mr. Derdowski could say more about the document tomorrow night, as well. But this would not provide an opportunity for the general public to comment on the document.

Chair Harris clarified that those who already had an opportunity to address the Commission on this subject would not be allowed to speak on the issue again at the May 5th hearing. Mr. Stewart added that the SEPA appeal hearing would be limited to those who have standing in the SEPA appeal. Vice Chair Piro said it appears that members of the public who just received the documents provided by Mr. Derdowski might want to offer some written comments. He agreed with Commissioner McClelland that the Commission should address the appropriateness of this and the time period for receiving them.

Commissioner Hall said his understanding is that following public testimony, the Commission has the ability to recommend approval of the contract rezone proposal with the conditions recommended by staff, recommend denial of the contract rezone proposal, or modify the conditions thereof. However, neither the applicant nor the public has the ability to impose additional conditions. Any changes in the conditions would be the result of the Commission's deliberations based on input from the public. Mr. Stewart said Commissioner Hall was correct. Commissioner Hall said it is important for the Commission to understand that there is no requirement for public notice or hearing related to the conditions that have been presented by both the applicant and Mr. Derdowski. Mr. Stewart agreed. He said the purpose of the public hearing is to allow members of the public to voice their opposition or support of the contract rezone and/or suggest substitutions for language in the conditions of the contract rezone. Once the Commission receives the comments, they can begin their deliberations and make a recommendation to the City Council who will be the final decision maker. Mr. Stewart emphasized that

the Commission should not deal with the conditions that were submitted by the public until they begin their deliberations. He reminded the Commission that one mechanism they have used in the past is to close the verbal hearing but leave the written comment period open for a time. The Commission could consider the written comments when they begin their deliberations, which are currently not scheduled to occur until May 19th.

Commissioner Phisuthikul clarified that the agreement between the two parties that was presented by Mr. Derdowski was not be included with the staff recommendation at this point. However, a Commissioner could choose to add these conditions during the deliberation period. Mr. Stewart agreed that during deliberations the Commission could add or delete whatever conditions they deem appropriate for their recommendation to the City Council. The City Council would then have the opportunity to add or delete conditions. Then if the applicant chooses to agree with the rezone conditions set forth by the City Council, he could sign the agreement and the contract rezone would go into effect. If the applicant chooses not to sign the rezone agreement then the action would be void.

Commissioner Broili referred to the agreement between parties that was submitted by Mr. Derdowski and asked how these conditions would align with the staff's recommendation. He questioned if staff would provide a new recommendation to the Commission based on the new information. Mr. Stewart said the staff has not reviewed the document that was submitted by Mr. Derdowski during the public hearing. However, they did review the previous draft of the document that was provided to them during the afternoon. He advised that staff provided a memorandum that raises a couple of issues with the proposed conditions, but staff reached the conclusion that they are generally supportive of the conditions that have been outlined by the appellants and the applicant. While they are concerned that some of them might be vague and difficult to enforce, generally, they are consistent with the staff's recommendation.

Vice Chair Piro reminded the Commission that not only must they consider the recommendation that was submitted by Mr. Derdowski, but they also have to consider the new conditions that were presented by the applicant's attorney. The staff has not had a chance to review these proposed changes, either. Mr. Stewart agreed that two sets of conditions were presented to the Commission: a new set by Mr. Derdowski and a new set by the applicant. Staff has not reviewed either document.

Vice Chair Piro asked if staff could analyze the proposed conditions and present a revised set of conditions to the Commission. Mr. Stewart said that if the changes to the development proposal or the conditions of the proposal would exceed those that were advertised or noticed, the City would have to readvertise, notice and reopen SEPA. If the conditions are within the project that was noticed and advertised, the Commission could move forward without a procedural defect.

Commissioner McClelland asked if it would be possible for the Commission to set a deadline for the public to provide written comments regarding the new documents that were submitted. Staff could also provide written clarification regarding the proposals. All of the written comments could be provided to the Commissioners for review prior to the May 19th hearing. Mr. Stewart said staff tries to get the packets out to the Commissioners and the public a week in advance of a Commission meeting.

Commissioner Hall recalled that the Commission has been questioned twice by members of the audience regarding their procedures. He asked staff to offer an opinion about whether quasi-judicial rules and procedures would allow the Planning Commissioners to speak with the staff about the proposal. He also asked if limiting the time for public testimony would be consistent with the rules and procedures for a quasi-judicial proceeding. Mr. Stewart said he would ask the City Attorney to respond to both of these questions. He noted that Flannery Collins, the Assistant City Attorney, would attend the May 5th public hearing.

Chair Harris explained that the public hearing would be held open until May 5th. Once the public hearing is closed on May 5th, the Commission would make a decision about whether or not they would hold the public comment period open for an additional period of time. Commissioner Hall suggested that extending the public hearing could impact the SEPA hearing. Mr. Stewart said staff also discussed with Mr. Derdowski the possibility that Echo-Par would terminate the SEPA appeal between now and the May 5th SEPA appeal hearing. If this occurs, the Hearing Examiner hearing would be cancelled and the Planning Commission would only hold a continued hearing on the change of zone. He suggested that the Commission continue the hearing on May 5th and accept testimony from anyone who has not already testified. Written public testimony could be submitted prior to the May 5th hearing. Another option would be for the Commission to extend the written comment period now so that the public would know that they have additional time.

COMMISSIONER PHISUTHIKUL MOVED THAT THE PUBLIC HEARING BE EXTENDED FOR WRITTEN COMMENTS ONLY UNTIL MAY 10, 2005 AT 5:00 P.M. VICE CHAIR PIRO SECONDED THE MOTION.

Commissioner Hall clarified that the motion does not imply any extension of the public hearing for verbal testimony beyond May 5th, although the Commission might make that decision after the hearing on May 5th. Commissioner Kuboi asked if someone who has already been allowed to offer verbal testimony would also be allowed to provide written testimony. Chair Harris answered affirmatively.

THE MOTION CARRIED UNANIMOUSLY.

Commissioner McClelland asked if the staff and applicant would provide their presentation again at the public hearing on May 5th. Mr. Stewart pointed out that the hearing was advertised for both nights. Therefore, staff feels it would be fair to allow anyone to come on either night and give testimony, but they had not planned on making a presentation on May 5th. Commissioner Hall suggested that copies of the staff report and PowerPoint presentation should be made available to the public prior to the May 5th meeting.

Commission Questions of the Applicant and Public

Commissioner Kuboi recalled that Mr. Derdowski made reference to a number of goals that he and the project proponent had agreed were important. One was related to public access. However, he said that in his review of the document Mr. Derdowski submitted, there was nothing that would secure this benefit in any legally enforceable way. In response, Mr. Derdowski referred to Condition 5, which

states that the owners would construct a boardwalk with public access through the buffer area. In addition, Condition 7 would require the owners to provide handicap assessable public access from the Interurban Trail to the project site. Lastly, he said Condition 3 indicates that the owners intend to apply for a permit to construct a publicly accessible beach and dock. Mr. Derdowski summarized that the owner has committed to allow public access on the boardwalk through the buffer, allow public access to a beach and dock if it is permitted, and provide public access from the Interurban Trail to the project site.

Commissioner Kuboi asked if the Echo-Par group and the applicant have come up with a dispute resolution process should they come to a disagreement on how any of the conditions are executed. Mr. Derdowski said he recently spoke with the City Attorney about how an agreement between the applicant and the appellant should be constructed. The City Attorney advised that the best way to do this would be to put it in the form of conditions that would be added to the contract rezone. This would be an alternative to the applicant and appellant signing some sort of real estate contract, which could get very cumbersome. He referred to the third paragraph of the agreement, which states that certain conditions would be added subject to approval of the City of Shoreline. The appellants who signed the agreement and the owners agreed to petition and work together to get the conditions approved. Once the conditions become part of the contract rezone, the applicant would have a complete contract and could decide whether to sign it or not. If he signs the contract, all of the contract conditions would be enforceable and applied to subsequent building permits, etc. If the contract rezone were approved, the owners would have to apply for a building permit, which would require a SEPA review. Citizens would be able to comment about whether or not the conditions were being applied correctly.

Commissioner Broili commented that he does not see how Conditions 3, 5 and 7, as pointed out by Mr. Derdowski, would assure linkage between Aurora Avenue North and the Interurban Trail. Mr. Derdowski agreed that the proposed agreement would not address this linkage. The linkage would probably be along the road that connects Aurora Avenue to the Interurban Trail, and presumably the access would be provided in this location. In addition, as they worked with the applicant, they contacted various experts in the field to provide ideas. One idea was the incredible concept of a view corridor from Aurora Avenue to the lake. One of the advantages of this feature would be that a person could cross the street from the park and ride, walk along Aurora Avenue northbound for a short distance on a sidewalk, walk by a café with some outdoor seating, and then start walking on a sidewalk with a view corridor right down to the lake on public right-of-way. At that point, they could get on the boardwalk and walk to the Interurban Trail on a handicap assessable trail. Another connection could be provided on a public right-of-way (North 192nd). He concluded by stating that a lot of open-minded people are looking for options. But tonight the Commission is considering the contract rezone, and the Commission's challenge is to come up with a package of conditions that are tight enough to protect the public interest and broad enough to include enough flexibility so the applicant can construct a viable project.

Again, Commissioner Broili asked if there would be a connection between the Interurban Trail and Aurora Avenue North. Mr. Derdowski said his understanding of Commissioner Broili's question was whether or not there would be a connection between the Interurban Trail and Aurora Avenue North via Echo Lake. He said the latest drawings the applicant is considering would have a sidewalk going along

the retail space. People would be able to walk down to the sidewalk to the public square and then along the boardwalk, through the buffer area, to the Interurban Trail access.

Commissioner Hall said asked if it would be within the City's purview to impose conditions in a contract rezone that may appear to be project specific conditions such as bulk regulations, upper floor "step backs", etc. Mr. Stewart answered affirmatively.

Commissioner McClelland questioned if the conditions proposed by the staff would be independent of the City being a participant in the project. Mr. Stewart answered that the project that was submitted to the City for review contained a proposal to use the building on the northwest corner as either a City Hall or other commercial use, including office. That is exactly how the application has been processed from the beginning. While the City Hall project has been withdrawn, the project that was proposed remains, and that is what the staff has reviewed and presented to the Commission for consideration. If the project has changed significantly because one of the perspective partners or buyers has withdrawn, making the project impossible, it would be appropriate to reconsider whether this is the project the Commission should be reviewing. But the staff cannot unilaterally change the project proposal without giving adequate notice, re-scoping and looking at the potential impacts of the changes.

Commissioner Hall clarified that if it is the staff's position that the conditions they received in the staff report are not out of date because of changes, it might be moot to ask them to work with the applicant team to come up with a broader and more flexible set of conditions. Mr. Stewart explained that the staff initiated the set of conditions originally. The applicant responded to those conditions with a complete set of comments that were included in the Staff Report as Attachment J. Staff agrees that many of the applicant's recommendations have a great deal of merit and the Commission should carefully consider the amendments proposed in Attachment J. They cover issues that were raised during the public hearing about parking requirements, affordable housing, etc. Now there is a third proposal to significantly change some of the conditions that the applicant had previously agreed to. In addition, a set of proposed conditions were set forth in the agreement with Echo-Par. He summarized that there are currently four sets of conditions: the staff's original conditions, the original comments from the applicant, the applicant's second set of comments, and then the agreement between the applicant and Echo-Par. He suggested that it would be appropriate for the staff to attempt to put these recommended conditions into some semblance of order. Commissioner Hall said he would welcome this effort by the staff because he feels the language proposed by the applicant's attorney would result in non-conditioned conditions. He said he feels there is some room to develop some conditions that may be more appropriate for a project that is in flux, and the staff's efforts in this regard would make the Commission's job much easier.

Commissioner Kuboi referred to the staff's opinion of the geotechnical report and said it appears from the staff write up that there wasn't really any objection taken to this report. Mr. Stewart pointed out that at the project level, a much more detailed soil analysis would be required as part of the structural review. Ms. Lehmberg agreed that at the project level the geotechnical reports would be analyzed by the City's development review team and a soils analysis and structural review would be done at that time. Mr. Stewart said a preliminary geotechnical review was completed for the site, and no insurmountable obstacles were identified for development of the site as proposed. Commissioner Kuboi said he is specifically interested in the extent to which the existing ground water flow would be interrupted by any

sort of excavated structured parking as proposed. Commissioner Hall said this issue is addressed in Attachment E of the packet.

Commissioner McClelland asked for further information about Ms. Crawford's comments about letting the buffer area restore itself naturally. She asked if Ms. Crawford is suggesting that this should happen on the entire 115 feet of buffer area or just a portion of the buffer area. If the Commission were to recommend that the buffer area restore itself naturally, she questioned if the species of birds that are found on the site would stay around. Ms. Crawford suggested that a natural restoration process would probably encourage the habitat to stay around more. If the grass is not mowed, it would grow up tall enough that the mother mallards could use the vegetation for screening. Commissioner McClelland asked Ms. Crawford if a public boardwalk would be in conflict with a natural restoration program. Ms. Crawford answered that it would not. She said a boardwalk would be the best way to provide access through the buffer area. There would be no compaction or erosion of the soil, yet the public would be able to access a deck right up to the lake.

Commissioner Hall recalled that the applicant and others expressed concern about some of the conditions as they currently appear in the Staff Report. He asked the applicant if he would support approval of the contract rezone as currently conditioned in the staff recommendations. Mr. O'Neil answered that he would not. He said the project would no longer be feasible, especially considering the significant cost associated with providing parking structures. He questioned how a condominium developer could provide affordable housing when he has to provide underground parking or parking structures. Also, he questioned how he would be able to attract senior citizens to the project if 40 percent of the clients have to qualify for low to medium-income housing.

Mr. O'Neil said the property owners had hoped to be done with the contract rezone process by the end of April, and they received a June 1st deadline to complete the purchase and sale agreement with the YMCA. If they are not able to meet this deadline, the YMCA would not be coming to Shoreline for at least another four years. They have four other communities that are ready to go, and plans have been developed. He said they have significant concerns about the conditions proposed by the staff, which they did not receive until the day after the appeal period had expired for response. He said he wrote a letter of response (Attachment J) stating that the conditions proposed by staff would be deal breakers.

Commissioner Hall asked if the YMCA facility would be a permitted use in the R-48 zone. Mr. Stewart said a YMCA facility would be classified as a sports and social club and would be allowed as a conditional use in all residential zones of the City, including R-48. It would be allowed as a permitted use in a regional business zone. If the YMCA were to locate on a site that had both regional business and R-48 zoning, the entire use could be permitted through a conditional use permit. Commissioner Hall summarized that it would be possible to locate the YMCA on the subject property with the current zoning designation, but it would require an additional permit. Mr. Stewart said the conditional use permit would require public notice, a comment period and an administrative decision that would be appealable to the Hearing Examiner.

Commissioner Hall said two types of suggestions about the various sets of conditions have been presented to the Commission. One suggestion the applicant's attorney brought forward was to modify

the language to be more permissive rather than mandatory. Other comments have been offered that while the step back concept is acceptable, requiring it to occur on every story would be excessive. Or perhaps structured parking is okay, but requiring it for all 1,000 spaces might be excessive. It was suggested that perhaps it would be appropriate to require some low to moderate-income housing, but 40 percent would be unattainable. Commissioner Hall asked if there are ways to put in mandatory conditions that might have smaller numbers that would provide some certainty to the public that has testified, while at the same time preserve the applicant's ability to complete a master planned mixed-use development. Mr. O'Neil said he understands that the contract rezone option is a new concept for the City. But they chose to do a contract rezone at the recommendation of their architects, and it was also a goal of the purchase and sale agreement. He said he does not know of any other rezones in the City that have mandatory requirements placed upon them. He said it seems like the City is trying to design the building, tell them where to the place their parking and how much parking to put in. While he can see some positive aspects related to the concept of a contract rezone, it appears the proposed conditions were orchestrated to actually kill the project.

If they were to end up with some sort of condition for the parking requirement that was mutually agreed upon by the City and the attorney as appropriate for the project to go forward, Vice Chair Piro asked if that would be acceptable to the applicant. Mr. O'Neil said that he expected the staff to come to him with the concerns that have been brought up by citizens and then they could work together to address the issues. But this type of communication and cooperation did not occur.

Vice Chair Piro asked if the applicant would be willing to work with the City to agree upon some percentage for affordable housing that would be feasible for both the City and the applicant. Mr. O'Neil said it would be a detriment to any developer if the City were to require that a specific amount of the housing be affordable to low and medium-income individuals. Developers would turn away from the project and go elsewhere where there are no restrictions. Vice Chair Piro said there are jurisdictions in the region that have formulaic percentages for the amount of affordable housing that must be set aside with each project. He asked if the applicant would accept a condition of this type. Mr. O'Neil said he would have to speak with some of the members of their development team regarding whether or not this type of requirement would make the development unfeasible.

Vice Chair Piro asked if the applicant would be amenable to working with the City to come up with some type of condition that would allow light access to the buffer area and the lake. Mr. O'Neil said their goal is to provide as much open space as possible. They are not trying to build something that would cluster buildings around the waterfront. Their intent is to open a view corridor and get light into the buffer space. But he doesn't understand the City staff's recommendation to add further conditions related to the building design.

Based on his discussions with the applicant, Commissioner Kuboi asked if the party Mr. Derdowski is representing is in agreement with the geotechnical report as it relates to impact on ground water. Mr. Derdowski said they have not addressed this issue. Commissioner Kuboi asked if Mr. Derdowski's group had any discussions about traffic impacts. Mr. Derdowski said they did not discuss this issue, either.

Commissioner Hall said he was unable to find the tree evaluation report that was referenced earlier in the hearing. Ms. Lehmberg said this report is in the application file, but it was not included as part of the Staff Report. Commissioner Hall asked that staff provide the Commission with copies of the report before the May 5th public hearing.

Commissioner Kuboi asked that staff provide feedback from the City Attorney regarding the difference between the terms "shall" and "will."

COMMISSIONER HALL MOVED THAT THE COMMISSION CONTINUE THE PUBLIC HEARING FOR FILE NUMBER 201372 TO MAY 5, 2005 AT 7:00 P.M. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

5. ADJOURNMENT

The meeting was adjourned at 9:50 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

These Minutes Approved
June 2nd, 2005

CITY OF SHORELINE

SUMMARY MINUTES OF
SHORELINE PLANNING COMMISSION/HEARING EXAMINER
JOINT MEETING

May 5, 2005 | Shoreline Conference Center
7:00 P.M. | Board Room

PRESENT
Chair Harris
Vice Chair Piro
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Ian Sievers, City Attorney
Flannery Collins, Assistant City Attorney
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT
Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

Chair Harris called the meeting to order at 7:03 p.m.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners Kuboi, Hall, Broili, McClelland and Phisuthikul. Commissioner MacCully and Sands were excused.

3. CONTINUED TYPE C QUASI-JUDICIAL PUBLIC HEARING ON THE ECHO LAKE CONTRACT REZONE APPLICATION (FILE NUMBER 201372)

Chair Harris reviewed the rules and procedures for the continued public hearing. He explained that this is a joint hearing with the Planning Commission and the Hearing Examiner. The purpose of the hearing is to accept testimony on the Planning Commission's review of the rezone on property located at the south end of Echo Lake and the Hearing Examiner's review of the SEPA appeal by the Echo-Par Group.

He emphasized that during the first portion of the meeting the public may comment to the Planning Commission regarding the rezone application, but only if they did not provide comments at the May 4th hearing. Once the testimony regarding the rezone application is complete, the Hearing Examiner would conduct the remaining part of the hearing for the SEPA appeal. He noted that testimony regarding the SEPA appeal would be limited to the appellants.

Chair Harris reminded the Commissioners of the Appearance of Fairness Law, which requires Commissioners to disclose any communications they may have received about the subject of the hearing outside the hearing.

Chair Harris opened the public hearing and asked the Commissioners to disclose any ex-parte communications they may have received concerning the subject of the hearing. Commissioner Hall disclosed that three or four weeks ago, prior to the Commission's deliberation on the site-specific Comprehensive Plan amendment for the subject property, he had dinner at Spiro's. He ended up being seated by the owner, Evan Volts, and he asked him about the upcoming remodel of Fred Meyer and the Aurora Corridor Project and the impact it would have to his business. They also discussed the Gateway Project, and at that point Mr. Volts informed him that he was a partner with Harley O'Neil on the Echo Lake proposal. Commissioner Hall said at that point he indicated Echo Lake was the subject of a pending quasi-judicial hearing and he could not discuss the issue any further. No substantive discussion regarding the Echo Lake application took place. No members of the audience raised Appearance of Fairness concerns.

Public Testimony or Comment

Don Riegelhuth, 19271 Stone Avenue North, referred to Condition 7 of the agreement between the applicant and members of the Echo-Par Group (Exhibit 1 from the May 4, 2005 meeting). This condition would require the owners of the subject property to provide handicap accessible public access from the Interurban Trail to the project site. It further states that an existing asphalt road that currently connects the project site to the trail may be modified to satisfy the requirement. He questioned if this would be the road that goes in front of his house (Stone Avenue), or would it be the portion of road that exists now in the trailer court? Chair Harris said this requirement was presented at the previous night's public hearing as a proposal and is not a part of the conditions that have been proposed by the staff. The Commission has not discussed this proposed requirement. Mr. Riegelhuth said they would like the proposal to include access from the Interurban Trail to the property where the existing trailer park is located. If the access from the Interurban Trail were to intersect with their property, it would eliminate the parking space that is available in front of their home. He pointed out that he currently pays Seattle City Light annually for the use of this road. He said his neighbors are also concerned about this same thing.

Dave Conlow, 2326 North 155th Street, said he does not believe the applicant provided proper information regarding the proposal. He emphasized that Echo Lake is not a wetland because it has a stream running through it. In addition, the streams and storm drains that run through the subject property have not been properly mapped. The geotechnical report was inadequate because only ten-foot test holes were dug. Given the proximity of the lake and the applicant's proposal to provide

underground parking, it is important to do more detailed geotechnical studies. He questioned if there was any evaluation done to determine what trees could be saved or would they all be removed and replaced. He said he is part of the Echo-Par Group, but he does not concur with the agreement they reached with the applicant. He said he felt uncomfortable when he heard that Janet Way had a $1,000 check from the landowner. He said he is not involved in the project appeal for the money. He just wants to protect the lake.

Peter Henry, 15224 – 5th Avenue Northeast, said he is also one of the appellants. He said he reluctantly supports Mr. Derdowski and Ms. Way in their efforts to reach an agreement with the applicant so that the appeal could be dropped. He feels the agreement is the best they can do. He said his chief concern at this time is to protect the water quality of Echo Lake and the environmental features that surround it. He said his understanding is that whether there is a contract rezone or not, the developer and the City would still be bound by SEPA, the Growth Management Act, the Critical Areas Ordinance and other City, State and Federal requirements.

Carol Murrin, Echo Cove Condominiums, 19414 Aurora Avenue North, voiced her concern about the number of condominiums that are being proposed for the subject property. She asked how many units are currently located on the trailer court property. Mr. Stewart answered that there are 110 units on this site now. Ms. Murrin said she would like to see fewer units placed on the subject property. Right now the applicant is proposing to develop 55 units per acre, and this would have a significant impact to the lake if people are allowed access. She asked that the Commission consider the impact to the lake if it is used for a recreational facility for those living in the new units.

Commission Questions of the Applicant and Public

Commissioner Hall asked Mr. Riegelhuth if he is opposed to the access road that is being proposed by the applicant or the entire proposal. Mr. Riegelhuth clarified that he does not have a problem with the proposal, but he does not want the handicap accessible public access from the Interurban Trail to go onto his road. He said it would work just as well to move this access another block down into the area where the trailer court is currently located.

Mr. Stewart said staff recommends the Commission close verbal testimony now, but leave the written comment period open until May 19th when the Commission reconvenes for consideration of the matter. Sometime over the next two or three days, staff could put together a revised and consolidated list of conditions as requested by the Commission. It is staff's intent to make the proposed list not only available to the Commission, but also to the community via the City's website. Anyone who has issues or comments on the proposed list could submit them in writing to the Commission before they begin their deliberations.

Commissioner Phisuthikul recalled that at the May 4th meeting, the Commission voted to leave the written testimony period open through May 10th. Mr. Stewart agreed, but he said staff is suggesting that the Commission add an additional nine days to the written comment period.

Commissioner Hall recalled that the reason the Commission agreed to cut the written comment period off on May 10th was to allow staff an opportunity to compile the comments and get them out to the Commission in their next meeting packet. If staff is comfortable with the idea of allowing written comments until the Commission's next meeting, he would support their recommendation to extend the written comment period to May 19th.

Commissioner Kuboi said he would support the staff's recommendation to extend the written comment period to May 19th. However, he would like time to be set aside on the May 19th agenda to allow the Commission to review the new written comments they receive. Mr. Stewart agreed. He said staff intends to include in the Commission's packet any comments they receive until the packet goes out. Then they would collect and assemble the additional comments they receive after the packets have been sent out and present them to the Commission at the May 19th hearing.

Commissioner McClelland suggested that perhaps it would be possible to cut off the written comment period a bit earlier so that Commissioners would have an opportunity to review the comments before they arrive at the May 19th meeting. Mr. Stewart pointed out that the staff would not release the revised list of conditions to the Commission and the public until the packets are sent out on May 12th, and the public should have an opportunity to offer written comments regarding the new list of conditions prior to the Commission deliberations. Time could be set aside on the May 19th agenda to allow the Commission to review new evidence and information. He felt this would be the fairest process.

Commissioner Broili said he would be in favor of ending the written comment period on May 12th. He said he does not want to wait until the last minute to digest all of the additional comments that come in after the Commissioners receives their packets for the May 19th meeting. Mr. Stewart reminded the Commission of their request that staff review the four alternative condition lists. If staff were to propose some new language that was not in any of the previous lists, it would be beneficial to the Commission to allow public response regarding the new language before they begin their deliberations. These comments would then be part of the record and available to the City Council when they deliberate on the Commission's recommendation.

Commissioner Kuboi asked if written comments would be posted on the City's website as they come in. Ms. Simulcik said she could do this. Commissioner Kuboi expressed his concern that if written comments are posted for the public to review, then the Commission could potentially get into a situation where they will have comments, rebuttal, comments, rebuttal, etc. It concerns him that new comments and materials could be submitted until the very end. Even if they have a substantial time period on the meeting agenda to review the new material, it still might not be sufficient. Mr. Stewart said that as soon as the comments are submitted they become part of the public record and are available to anyone. Typically, they do not post information on the website until the Commission has received it first.

Commissioner Hall pointed out that there are already four sets of conditions before the Commission for consideration and he appreciates staff taking the time to sort through them and figure out a set of conditions they believe would balance the interests. But ultimately, the conditions are something the Commission will either recommend to the City Council or not. If people have the opportunity to comment on all of the conditions that have been proposed to date, wordsmithing changes should not

damage the public process. He agreed with Commissioners Broili and Kuboi that receiving information at the very last minute has been very problematic for the Commissioners in the past. The applicant has a land use action pending, and he has a right to a decision. If the Commission receives new information on May 19th, this would threaten their ability to render a decision that evening. He suggested that the written comment period be cut off sooner. The public could be asked to look at the full range of conditions that have been placed before the Commission and provide their comments between now and May 10th.

Mr. Stewart advised that Ms. Spencer has suggested that if the Commission were to establish a cut off date for written comments of May 18th at noon, staff could compile, assemble and hand deliver the comments to each Commissioner on the afternoon of May 18th.

Commissioner McClelland pointed out that there have already been two instances in the last several meeting where materials have been presented to the Commission at the very end, and people who have financial and vested interest in what's going on do not have an opportunity to review and comment on the new materials. This creates an uncomfortable situation. If the Commission could receive the written comments by May 18th, the public must also be allowed to pick up a copy of the comments on May 18th. Mr. Stewart agreed. Rather than posting public comments on the website as they are received, Commissioner McClelland suggested that staff wait until May 18th to post all of the public comments at the same time.

COMMISSIONER MCCLELLAND MOVED THAT THE WRITTEN COMMENT PERIOD BE EXTENDED TO NOON ON MAY 18, 2005. VICE CHAIR PIRO SECONDED THE MOTION.

Commissioner Hall encouraged members of the public to submit their written comments as soon as possible so the Commission would have ample time to consider them.

THE MOTION CARRIED UNANIMOUSLY.

4. <u>PUBLIC HEARING ON SEPA APPEAL FOR FILE NUMBER 201372 REGARDING THE ECHO LAKE REZONE</u>

The Planning Commission portion of the joint hearing with the Hearing Examiner ended at 7:30 p.m. and the Echo Lake SEPA MDNS Appeal Hearing went from 7:30 p.m. to 8:50 p.m. Please see Hearing Examiner Decision dated May 16, 2005 for SEPA Hearing details.

The Public Hearing for File No. 201372 was closed at 8:50 p.m. The Planning Commission took a recess and then reconvened at 9:05 p.m.

COMMISSIONER HALL MOVED TO RECONSIDER THE PLANNING COMMISSION'S RECOMMENDATION TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION OF THE SOUTHERN PORTION OF THE SUBJECT PARCEL FROM HIGH DENSITY RESIDENTIAL TO MIXED USE. COMMISSIONER MCCLELLAND SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Commissioner Hall explained that when the Commission acted on the Comprehensive Plan site-specific land use designation change proposal, he didn't clearly separate in his mind what that would mean from what the rezone might mean. He said he has given further thought about the housing policies, the density, and all of the site plans they were shown throughout the process. While they were told that the Comprehensive Plan is separate from the rezone application and SEPA appeal, the Commission always had the notion that there would be up to 180,000 square feet of commercial space and up to 350 housing units. Upon further reflection, he said it occurred to him that absent a contract rezone, which is by no means a requirement or a condition on the Comprehensive Plan land use change, the change in the land use designation from High Density Residential to Mixed Use would require that any future decisions such as rezones, etc. would have to be reviewed by the Commission or the City Council to make sure they are consistent with the Comprehensive Plan. If the Comprehensive Plan land use designation were Mixed Use, there would be no guarantee that the property owner would develop any residential units on the subject property at all. There would be 101 low to moderate-income residential units displaced by the proposal, and the Growth Management Act goals require the City to provide housing opportunities to meet their established growth targets. He said the prospect of losing 6.71 acres of High Density Residential land and allowing it to possibly be developed as 100 percent commercial or industrial in the future could make it very difficult for the City to achieve the population densities and growth they are trying to accomplish through their Comprehensive Plan. He reminded the Commission how difficult it is to up zone property from Low Density Residential to High Density Residential.

Chair Harris reminded the Commission that another goal of the Growth Management Act is to create jobs for the community. Commissioner Hall agreed. Commissioner Kuboi explained that the use of the property would be governed by the zoning regulations. If the contract rezone were not approved, the existing High Density Residential zoning designation would remain intact irrespective of whether the land use designation was Mixed Use or not. Commissioner Kuboi said his understanding is that the City would still have a zoning designation that would be protective of housing as the use for the eastern portion of the site should the contract rezone not go through. Mr. Stewart agreed. Commissioner Kuboi said he does not share Commissioner Hall's concern with regards to the land use designation change from High Density Residential to Mixed Use.

Vice Chair Piro said that after the last hearing on May 4th, he considered options for some type of agreement on the percentage of low-income units that should be considered for the site. Mr. Stewart cautioned the Commission not to deliberate the contract rezone at this time. The scope of the debate should be narrowly focused on the Comprehensive Plan amendment and the proposal to change the High Density land use designation to Mixed Use.

Vice Chair Piro asked if there are provisions in the Growth Management Act or under State law that would require that like housing be constructed if low-income housing is removed. Mr. Stewart said staff would research this information.

Commissioner Phisuthikul said that he, too, was concerned at the beginning of the Commission's deliberations to change the Comprehensive Plan designation for the subject property from High Density to Mixed Use because it would be a very broad land use designation. He said he found it difficult to

support the land use change because a Mixed Use land use designation could potentially allow uses such as industrial to occur on the site. However, because any zoning change would require Planning Commission review and City Council approval, it is unlikely that the zoning on the subject property would ever be changed to allow industrial development. Because of the City's process that allows for checks and balances, he felt comfortable supporting the Comprehensive Plan land use change as proposed.

Commissioner McClelland clarified that if the Comprehensive Plan amendment is approved as proposed but the contract rezone and the proposed development does not occur, the existing zoning on the property and the new Comprehensive Plan land use designation would be inconsistent. Mr. Stewart answered that the current R-48 zoning designation would be consistent with the Mixed Use land use designation. Commissioner McClelland pointed out that once the Comprehensive Plan land use designation is changed to Mixed Use, there would be no guarantee that a different kind of rezone would not be requested in the future. Mr. Stewart referred to the list of zones that are compatible with the Mixed Use designation, which was handed out at the time the Commission was considering the land use proposal. This list of uses included R-48 as well as regional business, and these are the two zones that are currently on the site now. If the Mixed Use Comprehensive Plan amendment were adopted, the current zoning would be consistent with the Comprehensive Plan. If the land use designation were changed to Mixed Use, a rezone application could be submitted for any number of zoning districts. However, the Planning Commission's responsibility would be to review the proposal in light of the policies in the Comprehensive Plan and the criteria that has been established for adopting a zoning change. Following a public hearing, the Commission would be asked to deliberate and make a recommendation as to whether a proposed zoning change would be appropriate.

Commissioner McClelland recalled that when the Commission voted to recommend approval of the Comprehensive Plan amendment, she was reluctant to offer her support. She said that what they started out with was a complete application (a Comprehensive Plan amendment, a contract rezone, and a project). The proposed project originally included the possibility of the City owning some of the property. This property would be within the public's domain, and the City would have the ability to govern what goes on in the lake or the wetland. She said she favored moving the whole proposal through as a package. Once the SEPA determination was appealed and the process was chopped up into parts, they ended up with a situation where they don't know who will own the property in the end. She said she is so uneasy about the whole situation that she might be tempted to vote for the motion on the table if there were a way to reconstruct the package.

Chair Harris noted that the City doesn't own the land, and there are no plans for the City to purchase the land.

Vice Chair Piro suggested that, rather than reconsidering the Comprehensive Plan land use change, perhaps the housing issues that have been raised by Commissioner Hall could be addressed as the Commission goes through the process of revising the contract rezone conditions.

COMMISSIONER HALL WITHDREW HIS MOTION TO RECONSIDER THE COMMISSION'S RECOMMENDATION ON THE COMPREHENSIVE PLAN LAND USE

AMENDMENT, WITH THE UNDERSTANDING THAT THE ISSUES IN THE COMPREHENSIVE PLAN COULD BE ADEQUATELY CONSIDERED AT THE TIME OF REZONE. THE FACT THAT THE LAND WOULD BE REDESIGNATED AS MIXED USE WOULD NOT MEAN THE COMMISSION COULD NOT THINK ABOUT ALL OF THE POLICIES IN THE COMPREHENSIVE PLAN WHEN A REZONE APPLICATION IS SUBMITTED.

Commissioner Broili stated that he believes the Commission made a decision that, assuming the proposed plan goes forward, would give the City a good final product that they can be proud of. It would meet the residential requirements they are looking for in a mixed-use area. He said he would be very reluctant to change direction midstream because it would only "muddy the water" and the perspective developers could just walk away from the project altogether. He said this type of situation would be a major concern to him.

COMMISSIONER MCCLELLAND WITHDREW HER SECOND OF THE MOTION.

Commissioner Kuboi suggested that it is probably a reasonable statement to say that people of very low incomes occupy the trailer park. He asked if this would be tantamount to saying that it is low-income housing. By losing those units, he asked if the City would be deficit in with respect to low-income housing. Mr. Stewart said there are some policy implications regarding affordable housing and SEPA implications, and there are very clear definitions in the development code for moderate income, low income, very low-income and extremely low-income housing based upon the percentage of median household income that is spent for rent. However, the City staff does not have access to information that would allow them to specifically identify the income level of any housing unit in Shoreline unless it were attached to some public, federal, state or other subsidy program.

Commissioner Broili clarified that the City staff doesn't really know what the mean income of the people living in housing developments within Shoreline is. He said his personal experience in visiting the property is that the people who live in the trailer park had a nice situation and were able to live close to the lake. While they lived in trailers, there were a lot of expensive cars and boats, as well. He questioned if the residents of the trailer park could really be considered low-income. He said he is not convinced that the proposed project would really displace low-income residents.

Mr. Stewart advised that staff would attempt to provide a response to the Commission regarding the current laws for low-income housing.

5. ADJOURNMENT

COMMISSIONER HALL MOVED THAT THE COMMISSION MEETING BE ADJOURNED. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

The meeting was adjourned at 9:25 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING

May 19, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT
Chair Harris
Commissioner Sands
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili
Commissioner MacCully

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Matt Torpey, Planner II, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT
Vice Chair Piro

1. CALL TO ORDER

The regular meeting was called to order at 7:03 p.m. by Chair Harris, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Commissioners Kuboi, Sands, Hall, McClelland, Phisuthikul, MacCully and Broili. Vice Chair Piro was excused.

3. APPROVAL OF AGENDA

Commissioner Hall suggested that if the Commission does not feel they would have time on their agenda to consider the Critical Areas Ordinance, they could send Mr. Torpey home rather than requiring him to wait throughout the entire meeting. The Commission agreed that no changes should be made to the proposed agenda, and Mr. Torpey should remain at the meeting.

COMMISSIONER BROILI MOVED THAT THE AGENDA BE APPROVED AS PRESENTED. COMMISSIONER HALL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

4. DIRECTOR'S REPORT

Mr. Stewart advised that each of the Commissioners received a copy of the Shoreline Hearing Examiner's decision confirming the Mitigated Determination of Non-significance, and announced that the appeal that was filed on the Echo Lake SEPA Determination has been denied.

Mr. Stewart advised that Steve Burkett, the City Manager; Tom Boydell, the new Economic Development Manager; and Alicia Sherman, the Aurora Corridor Project Planner would be in attendance at the June 2nd meeting to introduce themselves to the Commission and have an informal chat.

5. APPROVAL OF MINUTES

The minutes of April 14, 2005 were approved as submitted. The minutes of April 21, 2005 were approved as amended.

6. GENERAL PUBLIC COMMENT

Barbara Lacy, 19275 Stone Avenue North, said she is a resident of the Echo Lake neighborhood and a Board Member for the Echo Lake Neighborhood Association. She recalled that at the April 14th meeting Commissioner McClelland asked if Echo Lake was safe for swimming. She shared data from a 2004 Swimming Beach Bacteria Levels Report that is published weekly on King County's website. She explained that Shoreline's water specialist, Andy Lock, sampled Echo Lake Water two to three feet from the sandy beach at the north end of the public park. She said the numbers in the report indicated that the water quality in Echo Lake was good. However, whether or not it is safe to swim in Echo Lake would depend upon the behavior of the public in the park and parental supervision. Signs in Echo Lake Park note that there is no lifeguard on duty. They also caution swimming, not feeding the geese or ducks, keeping pets on leash, bagging pet waste, bagging picnic garbage, etc. All of these are valid concerns for potentially harmful bacteria in the lake. She concluded that the decision to swim still rests with individual parents, but the neighborhood is extremely grateful that the City provided data to help them make individual choices about the risk of swimming. Ms. Lacy said the very first water sample for the 2005 weekly monitoring of Echo Lake was taken by Mr. Lock on Tuesday and would be posted on the website soon. Commissioner MacCully asked if Ms. Lacy or any of her family swims in Echo Lake. Ms. Lacy answered affirmatively.

7. REPORTS OF COMMITTEES AND COMMISSIONERS

There were no reports from Commissioners during this portion of the meeting.

8. STAFF REPORTS

There were no staff reports scheduled on the agenda.

9. PUBLIC COMMENT

No additional comments were provided during this portion of the meeting.

10. UNFINISHED BUSINESS

a. Deliberations/Recommendation for Rezones Related to Comprehensive Plan Amendments

Ms. Spencer advised that the public hearing for Items a.1 and a.2 was held on March 3rd, and all of the Commissioners were present, and could therefore participate in the deliberations and recommendations.

a.1 Crosby Rezone for Property Located at North 160th and Fremont (File Number 201371)

Ms. Spencer recalled that the Planning Commission recommended that the City Council deny the land use change request for this parcel. Therefore, the land use designation would remain as low-density residential. She noted that concurrent with the Comprehensive Plan amendment request, a rezone application was submitted to change the zoning from R-6 to R-24. The staff recommends that the Commission make a finding for denial of the rezone request since it would not be consistent with the Comprehensive Plan. She pointed out that the findings for this particular application could be found starting on Page 43 of the Staff Report.

COMMISSIONER BROILI MOVED TO RECOMMEND DENIAL OF REZONE APPLICATION 201371 FROM R-6 TO R-24 UNITS PER ACRE BASED ON THE COMMISSION'S PREVIOUS DENIAL TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION FROM LOW-DENSITY RESIDENTIAL TO HIGH-DENSITY RESIDENTIAL BASED ON THE FINDINGS PRESENTED ON PAGE 43 OF THE STAFF REPORT. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Commissioner Hall noted that the findings, as presented in the Staff Report, reflect the procedural history quite accurately. And the conclusions summarize some of the decisions the Commission made. However, during their deliberations, the Commission also specifically talked about the adjacent green space, the trees and their drip lines and how impractical it would be to save the trees if the proposed dense development were allowed to occur. They also discussed that the adjacent residential density, even across the street, is only R-18 instead of R-24. In addition, they discussed a possible section of Boeing Creek that flows through a pipe in the adjacent right-of-way. All of these issues could be sited as Findings of Fact instead of Conclusions.

Commissioner Broili added that the Commission also discussed that the there is a natural division between the low and high-density residential areas. Everything west of Fremont Avenue is low-density

residential. He said he previously expressed that he is opposed to the expansion of high-density residential zoning into the low-density area.

Commissioner Kuboi referred to Conclusion 4 on Page 46 of the draft findings in the Staff Report, which states, "Due to the site's proximity to a low-density zone to the west, the impact of allowing for placement of up to 4 units would adversely affect the adjacent low-density neighborhood." Commissioner Kuboi expressed his belief that this statement is too strong. He expressed concern about what it could mean to future instances where something with a higher density is proposed next to a lower density. He said that even though the proposed R-24 density sounds high, it would only result in four more units. He suggested that someone in the future could twist this conclusion in ways that might not have been intended by the Commission.

Commissioner Hall agreed and suggested that the wording of Conclusion 4 be changed to read, "The placement of four units would be inconsistent with the character of the R-6 zoning to the west." Commissioner McClelland recalled that when the Commission considered the Comprehensive Plan Amendment for this property, they agreed that an R-24 density was too high for a property that was adjacent to an R-6 neighborhood. She suggested that a better approach would be for Conclusion 4 to reference zoning designations rather than the number of units.

Commissioner Kuboi asked for clarification regarding the term "adversely affect." Mr. Stewart said the real criterion is "materially detrimental" and that is the standard the Commission should judge an application against. Commissioner Kuboi inquired if case law or staff experience has yielded a more concrete definition for "materially detrimental." Mr. Stewart said this term certainly offers staff some leeway, but the Commission clearly stated their reasons for recommending denial of the proposed Comprehensive Plan Amendment.

COMMISSIONER HALL MOVED TO AMEND THE MAIN MOTION BY CHANGING SECTION II PART 4 ON PAGE 46 OF THE STAFF REPORT TO READ, "R-24 ZONING WOULD BE INCONSISTENT WITH THE R-6 ZONING TO THE WEST." COMMISSIONER KUBOI SECONDED THE MOTION TO AMEND THE MAIN MOTION.

THE AMENDED MOTION WAS APPROVED 7-0, WITH CHAIR HARRIS ABSTAINING.

Chair Harris noted that he was not present when the Commission considered the Comprehensive Plan Amendment for the subject property and that is why he did not vote on the motion. Commissioner MacCully pointed out that he was present at the March 3rd public hearing, but he was not present when the Commission deliberated the proposed Comprehensive Plan Amendment. He questioned if he should have abstain from voting on the motion, also. Chair Harris advised that he was eligible to vote on the matter since he also attended the public hearing, but he chose not to.

a.2 Harper Rezone for Property Located on Northeast 15th (File Number 201277)

Ms. Spencer reminded the Commission of their recommendation to change the Comprehensive Plan Land Use Designation from Ballinger Special Study Area to High-Density Residential. She noted that

the Comprehensive Plan amendment proposal was accompanied by a rezone application to change the zoning on the property from R-6 to R-24. She advised that staff recommends the Commission approve the rezone application. She pointed out that the findings for this application start on Page 57 of the Staff Report.

COMMISSIONER HALL MOVED TO APPROVE REZONE APPLICATION 201277 FROM R-6 TO R-24 UNITS PER ACRE BASED ON PREVIOUS FINDINGS OF APPROVAL MADE BY THE PLANNING COMMISSION REGARDING A REQUEST TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION OF THIS PARCEL FROM BALLINGER SPECIAL STUDY AREA TO HIGH-DENSITY RESIDENTIAL BASED ON THE FINDINGS PRESENTED IN THE STAFF REPORT. COMMISSIONER KUBOI SECONDED THE MOTION.

Commissioner Hall recalled the statement he previously made when the Planning Commission deliberated the Comprehensive Plan Amendment proposal. The subject parcel is completely surrounded by high-density residential, and the aerial photographs seemed compelling. There was no neighborhood opposition. Only one person testified at the hearing, and they seemed to advocate a complete no growth approach. The Planning Commission has been challenged by the Comprehensive Plan goals, which call for growth and an increase in density. It is the Commission's task to try and site the growth in appropriate places. Allowing a higher density for property that is surrounded by a higher density provides an opportunity for the City to achieve their growth targets. He said he strongly supports the proposed rezone request.

THE MOTION CARRIED 7-0, WITH CHAIR HARRIS ABSTAINING.

a.3 Echo Lake Rezone (File Number 201372)

Mr. Stewart advised that, as requested by the Commission, staff attempted to create an amended set of conditions (Pages 63 through 66 of the Staff Report) for the Commission's consideration. He noted that in Condition 7 on Page 64, the reference to "3-I" should be changed to "4-H." Mr. Stewart noted that the genesis of where the condition came from is identified in parentheses at the end of each item. The conditions were published a week ago, and staff received three comment letters that were included in the Commission's packet. Mr. Stewart said that in the conditions, staff attempted to find middle ground and acceptable language based on the comments and testimony that were received at the public hearing. He referred the Commission to the yellow "Meeting Action Summary," which offers three options for the Commission to proceed.

Mr. Stewart pointed out that Commissioners Sands and MacCully did not attend the public hearing on the application. Unless they listened carefully to the tapes, they probably would be best advised not to participate in the development of the recommendation for Council. Commissioner Broili pointed out that he missed the first hour of the May 4th public hearing, but he did listen to the tapes from the meeting.

Commissioner Hall suggested that the Commission place a motion of approval on the floor and then work to amend the conditions as appropriate.

COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF THE REZONE APPLICATION FOR FILE NUMBER 201372 FROM R-48 AND REGIONAL BUSINESS TO REGIONAL BUSINESS WITH CONTRACT ZONE BASED ON THE FINDINGS IN ATTACHMENT E OF THE STAFF REPORT WITH THE PROPOSED CONDITIONS OF REZONE PRESENTED IN ATTACHMENT A ON PAGE 63 OF THE STAFF REPORT. COMMISSIONER BROILI SECONDED THE MOTION.

Chair Harris suggested that the Commission review the conditions one-by-one. The remainder of the Commission agreed. Commissioner Kuboi pointed out that anything that is not included in the conditions would not be enforceable. Therefore, it is important for the Commissioners to state their preferences so they can be included in the contract conditions. Mr. Stewart clarified that the contract rezone would be integrated with the Regional Business zone, and this has been clearly articulated in the first part of Condition 4. Therefore, the contract is not the entire body of regulations that would apply to the subject property; that if the contract does not specify a regulation the Development Code Standards for the Regional Business zoning district would apply. The contract conditions would identify deviations from the normal requirements of the Regional Business zone.

The Commission reviewed each of the proposed conditions and made the following comments:

- **Condition 1:** Mr. Stewart said it is important to recognize that the applicant must agree with the final set of conditions. If the applicant does not agree to one or more of the conditions, he/she does not have to sign the contract and the contract rezone would not be valid.

  Commissioner Phisuthikul suggested that language be added that the agreement would run with the land. Mr. Stewart said there would not be any need to add this to the condition because it is a fact that the contract would run with the land. However, it would not be appropriate for the City to limit ownership through the contract conditions. The applicant would be free to exchange, trade, barter or sell the property in the future with the associated conditions.

  Commissioner Kuboi asked if the term "all parties" refers to the applicant and the City, only. If so, perhaps they could just say "applicant and the City." This would make it clear that Echo Par is not a party. Mr. Stewart explained that the parties and ownership might be different than the applicant who signs the application. Therefore, he would prefer to use the term "all parties."

- **Condition 2:** Commissioner McClelland inquired if the 100 units that are proposed to be set aside are consistent with the issued SEPA MDNS decision. Mr. Stewart said the only MDNS requirement that would apply to Condition 2 is related to screening. The checklist provides some information about the number of units that would be allowed on the subject property, and extensive comments were previously provided by the applicant suggesting that perhaps the language should be modified. He referred to Condition 4b, which represents staff's attempt to craft language regarding affordable

units. He said he does not believe that Condition 2 and Condition 4.b would be inconsistent with the MDNS.

- **Condition 3:** Commissioner McClelland said she understands that the City's technical definition of Echo Lake is "Wetland" because they don't have a definition for a lake. But throughout the document, they call it both a wetland and a lake. Even though it has a classification as a wetland, she suggested that it should be called "the lake." Mr. Stewart said that would not be possible in Condition 3 since they want the buffer to run along the wetland, which is the edge of the lake. He said the City staff has consistently interpreted the Critical Areas Ordinance for a lake or water body to be a wetland, except where the court overruled them by determining that Peverly Pond was a stream. He emphasized that there is not a similar fact pattern in this case.

  Commissioner McClelland inquired if the reference to "wetland" in Condition 3 would only apply to the water's edge and not the whole lake. Mr. Stewart said they are referring to the edge of the water that meets the standards and criteria for a wetland. This might also impose further onto the land than what normally would be considered the edge of the water. Commissioner McClelland suggested that Condition 3 be changed to "the wetland portion of Echo Lake." Mr. Stewart explained that the wetland line would be delineated and then a 115-foot line would be drawn to establish the buffer limit where no development would be allowed.

  Commissioner Hall agreed that there could be a gap in the code that is confusing to some, but the code has been consistently applied. He explained that classifying it as a wetland is the only regulatory tool the City can use to protect Echo Lake. Without designating the lake as a wetland, the gap in the regulations could be interpreted to mean that no regulatory protection would be required at all. In his opinion, he said it is to the advantage of everyone who has testified about the importance of protecting the lake to continue to refer to it as a wetland.

  Mr. Stewart pointed out that this condition merely establishes the buffer for building. It does not require restoration, nor does it prohibit certain uses from occurring within the buffer. He said this fact would be important when the Commission reviews some of the other conditions.

- **Condition 4:** Commissioner Kuboi questioned why traffic was not included in the list of provisions. Mr. Stewart answered that the SEPA Checklist and the limitations on use (182,000 square feet of commercial and 350 residential units) are below the impacts that would have otherwise been generated by the current zoning. Limiting the intensity of development keeps the impacts below what would have otherwise been permitted under the current zoning. He noted that the current zoning had been studied during the adoption of the original Comprehensive Plan and Zoning Ordinance. There was no finding under SEPA that traffic mitigation should be required, and this determination has been upheld.

- **Condition 4.a:** Commissioner Kuboi requested clarification about how staff would interpret the phrase "generally comply with the site plan submitted with the application." Mr. Stewart said there is a gray area as to what level of specificity would be required for the development. The condition would require the development to comply with the general layout of the site, with the units and

configuration as shown on the site plan. If the property owner decides to build one large structure on the west side as opposed two or three, Commissioner Kuboi asked if a developer would be allowed to build one large structure on the west side as opposed to two ore three as indicated on the site plan. Mr. Stewart said this determination would have to be made when a formal proposal is submitted; but generally, this condition would provide some level of flexibility.

Commissioner Kuboi pointed out that the proposed site plan might not be anything close to what is actually built other than 350 housing units and up to 182,000 square feet of commercial space. Mr. Stewart said the site plan would be part of the record and incorporated into the ordinance, and the staff would have some discretion in deciding whether or not a development proposal generally complies with the site plan. He clarified that the site plan has always designated space for a City Hall/Office structure.

Mr. Stewart advised that the applicant has stressed the importance of allowing flexibility in order for them to accommodate the market. The staff believes that some flexibility would be reasonable, with all of the other conditions added to address future development. Commissioner McClelland pointed out that this condition would allow up to 10,000 square feet of retail space on the east side of the property. Does this mean a developer could construct up to 10,000 square feet of retail space in place of some of the housing units. Mr. Stewart said the overall development limitation is 182,000 square feet of commercial space, and up to 10,000 of this could be developed on the east side. This would leave 172,000 square feet on the west side. Also, up to 350 residential units would be allowed on the east side. Condition 4.c would also allow for the replacement of commercial space with residential uses on a square-foot-by-square-foot basis. Commissioner McClelland suggested that perhaps they should make it clear that the 10,000 square feet of commercial space allowed on the east side of the property would be calculated as part of the 182,000 square feet of commercial space allowed for the entire site. Mr. Stewart said he believes the conditions, as proposed, would limit the maximum amount of commercial space to 182,000 square feet total. However, the Commission could further clarify this constraint.

Commissioner Phisuthikul suggested that the key element of the proposed development is that it would be a true mixture of commercial and residential development. He asked if the Commission could impose a condition that any development proposal must include both commercial and residential development. This would prohibit totally commercial or totally residential developments. Mr. Stewart answered that this could be possible. However, he anticipates that the site would be developed in phases. Some of the phases might be heavily residential and others might be heavily commercial. By requiring a mixture of uses, they might further constrain the developer's ability to build something that is feasible. Commissioner Phisuthikul agreed that some phases might be more commercial and others more residential, but at least the master plan should clearly identify a mix of commercial and residential development for the site. Commissioner Hall suggested that there are ways to create a condition that might be acceptable to staff once they start deliberating on alternatives.

Commissioner Kuboi asked if the conditions, as proposed, would limit a developer's ability to construct a single "big box" commercial building that provides 182,000 square feet of space. Mr.

Stewart said some of the other conditions that have been proposed would prohibit this type of development.

- **Condition 4.b:** Commissioner Hall asked if the City could impose an additional condition aimed at achieving a minimum housing density. For example, he suggested that an additional condition could be added that would say, "No development shall occur on the site that would preclude a yield of a minimum of 250 housing units on the site in the general configuration of the site plan." Mr. Stewart said this type of condition would be acceptable to the staff. Commissioner Hall said it would be consistent with the developer's testimony, but it would offer some assurance that the development would not be all commercial or all residential.

  Commissioner Kuboi asked if the last words of this condition would place a burden on the project proponent to seek out and apply for subsidies, or would this be the City's responsibility. Mr. Stewart explained that the new language in this condition represents a compromise based on the comments from the public hearing. The intent of this condition is to require the developer to assert effort to find subsidies. He explained that when a specific development proposal is submitted, staff would ask what attempts the developer made to find subsidies. The staff would expect the developer to provide a rational and factual based answer. He concluded that if the developer makes a substantial effort to comply, this effort would satisfy Condition 4.b. They would not deny the development permit unless there was no evidence in the record to show that effort had been made.

- **Condition 4.c:** Mr. Stewart pointed out that the second sentence in this condition represents compromise language that is intended to provide for flexibility in design. The staff agreed with the applicant that this would be on a square-foot-per-square-foot basis and would actually reduce the traffic impact associated with the development because trading commercial square footage for residential square footage would generate fewer trips. This condition would also help promote the City's housing goals. He emphasized that the condition would not allow a developer to trade residential units for more commercial space.

- **Condition 4.d:** Commissioner Hall asked if this condition would permit 563 surface parking spaces on the site. Mr. Stewart said it would allow for 500 spaces to be open to the sky, but this might be proportionately on the surface and on the top floor of a garage that is not covered.

- **Condition 4.e:** The Commission did not have any comments to make regarding this proposed condition.

- **Condition 4.f:** Mr. Stewart explained that Commissioner Phisuthikul proposed the language in this condition. When the developer did the actual calculations, it was very onerous. The condition has been modified to protect the first 50 feet of the wetland buffer as opposed to the entire 115 feet. Ms. Lehmberg said that in order to meet the condition to allow solar access for the entire buffer, the applicant indicated that they would have to set the building back an additional 65 feet, which did not seem reasonable. Mr. Stewart expressed his belief that the proposed modification to this condition represents a technically objective standard for design, and it would allow the architect opportunities to be flexible.

Commissioner Phisuthikul explained that it would not make sense to draw a hard line for where the developer should protect the solar access for the buffer area. Only a portion of the building might cast a shadow within the 50 feet, and the rest could be open for the sunshine. He suggested that drawing a hard line would be too limiting. As proposed, this condition would only apply to about half of the setback area, and the applicant would be required to make their best effort to protect the solar access. It is intended to be a design guideline.

Commissioner McClelland inquired if a building could be built right up to the edge of the 115-foot buffer line. Mr. Stewart answered affirmatively. Commissioner Phisuthikul added, however, the developer must demonstrate that he has done the best he can to comply with Condition 4.f. If part of the building is right next to the buffer but the rest is set back and does not cast a shadow into the buffer, the development would be in compliance with the condition.

- **Condition 4.g:** Commissioner McClelland asked if the 90 percent identified in this condition would be variable, depending on how many units they end up with. Mr. Stewart said these standards are part of the current development code for maximum impervious surface. Commissioner McClelland pointed out that 15 feet of the buffer area would be treated as a setback. Mr. Stewart clarified that all 115-feet would be the buffer, but 15 feet of it could be used when calculating the amount of impervious surface allowed.

- **Condition 4.h:** Mr. Stewart explained that when the staff reviewed the original site plan and tree inventory, it appeared that they would be incompatible with the preservation of trees outside of the wetland buffer. There was significant staff debate, and not all staff members support this condition. He noted that the relief proposed in the condition would not apply to either the wetland or the buffer area. Trees on site would be exchanged for the development of an approved habitat restoration plan in the wetland buffer.

  Commissioner Kuboi asked why staff did not recommend tree replacement as a condition instead of requiring a habitat restoration plan for the buffer. Mr. Stewart said the City's landscape standards require tree replacement, but the tree ordinance requires it at a higher standard. The Commission could require tree replacement in accordance with the tree ordinance standard, but staff felt that the landscape tree replacement standard would be adequate and that a habitat restoration plan would be an adequate trade-off. Commissioner Kuboi recalled that this issue was raised during the applicant's negotiations with the Echo Par Group. Mr. Stewart said this was originally a staff recommendation that the developer concurred with in his March 28th comment letter. It was also a subject of the agreement with members of the Echo Par Group. The original agreement was that the "owner shall identify significant trees and preserve as many as can be preserved consistent with their design parameters." He felt the original condition was quite ambiguous.

- **Condition 5:** The Commission did not provide any specific comments regarding this condition.

- **Condition 6:** Commissioner Broili referred to Line 4 of this condition, which would require the developer to work with the City. He asked what this phrase would imply. Mr. Stewart said the site and Echo Lake is the collection point of a fairly large drainage basin that runs all the way up through Sky Nursery and the Gateway site. He said one of the benefits that was discussed early on was the opportunity for the City to work with the developer to build an oversized water treatment and collection facility to handle some of the runoff from roads in the larger basin. This would have to be a voluntary agreement by both the City and the applicant, but they wanted to include it as a condition so that people would know that the opportunity exists. If the site required a treatment facility of a certain size and the City wanted to make this larger, they would have to subsidize construction of the oversized facility.

  In the event of a conflict between the Department of Ecology Manual and the City's adopted Stormwater Manual, Commissioner Broili asked if it is standard procedure for the City's manual to prevail. Could this condition state that whichever provides the highest standard should prevail? Mr. Stewart said the agreement between the applicant and some of the citizens who participated in the SEPA appeal would require the developer to comply with the Department of Ecology Manual and City requirements. The City requires the use of the King County manual, and parts of the two manuals are inconsistent with each other. In these situations, this condition would require that the City's manual be implemented. The proposed condition is an attempt to accommodate the private agreement but still be consistent with the City's regulations.

  Commissioner Broili suggested that there might be occasions where the Department of Ecology Manual would be more stringent in its requirements, and he would prefer to err on the more stringent side. Mr. Stewart said that a higher standard might result on the site because of the private agreement provision, but it would be a private matter. The City would enforce its own regulations. He emphasized that the City was not part of the private agreement.

  Commissioner Broili asked if Condition 6 could be reworded so that they end up with the most stringent stormwater approach possible. Mr. Stewart answered that when he discussed this condition with the Public Works staff, they were very concerned about trying to merge the two manuals and about the lack of knowledge the City's technical staff has about the Department of Ecology Manual.

  Commissioner Sands said his interpretation of Condition 6 is that there is a separate private agreement that would require the applicant to comply with the Department of Ecology Manual. If the requirements in the Department of Ecology Manual were more stringent than the City's, the City would not be opposed to the applicant meeting the more stringent requirement. However, if the Department of Ecology Manual were less stringent, Condition 6 would require the developer to meet the requirements in the City's Stormwater Manual. He said it appears that, either way, the most stringent standard would be applied. Mr. Stewart agreed.

  Commissioner McClelland asked if this condition would require the applicant to consider working with the City. Mr. Stewart said the two parties would enter into a discussion that would probably

involve at least the City's willingness to contribute or propose an oversized system. If the City were willing to propose this, the developer would be obligated to consider whether or not they want to work with the City. Because the facility would be much greater than the applicant would be required to do on his/her own, it would require some form of contribution of public funds for the benefit of collecting and treating stormwater from the larger drainage basin.

Commissioner Hall recommended that the Commission spend the remainder of their time considering the changes they want to make to the conditions. Additional clarification could be requested along the way. He expressed his concern that the applicant has worked hard to go through a difficult process, and he would like the Commission to reach resolution of the matter by 10:00 p.m. so they could adjourn the meeting. If they continue in their current format, they will not likely be able to do this.

Commissioner Broili said he still has a few questions of clarification before he is ready to consider possible changes to the conditions. The Commission agreed to spend another ten or fifteen minutes to focus on the highest priority questions that each Commissioner has, but they should not belabor their discussions right now. They should start talking about changes to the conditions by 9:00 p.m. Commissioner McClelland questioned the need to rush a decision on one of the largest developments that will occur in the City over the next several years. Commissioner Phisuthikul suggested that many of the questions that have been raised are related to semantics. Chair Harris urged the Commission to ask straight questions for fact finding instead of deliberations. Commissioner Broili pointed out that this is a time-sensitive application, and the YMCA has a deadline of June 1 for a decision to be made. Commissioner McClelland cautioned that it is the Commission's responsibility to make sure there is not a single opportunity to misinterpret the intentions of the conditions.

- **Condition 7:** Commissioner Broili commented that he does not believe "BuiltGreen" certificates would be appropriate since they relate to single-family residential development only. However, the developers should consider pursuing LEED for buildings in the project.

- **Condition 8:** Commissioner McClelland asked if the term, "enhancement and restoration plan for the shoreline of Echo Lake" references the wetland. If so, shouldn't they just call it the wetland? Mr. Stewart explained that Conditions 8, 11.a, 11.b, 11.c, 12, 13 and perhaps others are really just refinements of Condition 4.h, which has to do with the creation of a habitat restoration plan. These other conditions refer to fine details that have been negotiated between the private parties and will be incorporated into the habitat restoration permit. He explained that the term referenced by Commissioner McClelland is broader than a wetland in that a wetland is regulated as the area of land at the edge of the water. The restoration plan goes beyond this area and talks about restoration within the lake, itself. Commissioner Phisuthikul suggested that the Commission move on since they have already determined that the Echo Lake is referred to as a wetland.

- **Condition 9:** Commissioner Phisuthikul asked what the term "existing higher quality shoreline areas" refers to. Mr. Stewart said this area would be identified by a biologist who would looking at classifications of higher and lower quality functions.

- **Condition 10:** Commissioner Broili said he is unclear about the meaning of the term "contiguous 70 feet of lake shoreline." He asked if this is related to the 75 feet that is referenced in Condition 11. Chair Harris asked how the staff came up with the 70 feet that is recommended in this condition. Mr. Stewart said this condition is the beach and dock provision that was part of the negotiated private agreement between Echo Par and the property owner. It would provide for a beach and a boardwalk within the 70 feet. The notion is that the remaining area would be fully restored into habitat, as would the area behind the beach with the dimensions described in the condition. He summarized that the 70-foot width would be measured along the shoreline.

  Chair Harris asked if the staff agrees with the 70 feet that is identified in this condition. Mr. Stewart said the staff does not object to Condition 10, but the property is currently privately owned. There are some benefits identified in further conditions that would allow public access to the area. He concluded this condition is a value statement of how much of a beach and dock the applicant is willing to grant.

- **Condition 11:** The Commission did not provide any specific comments about this condition.

- **Condition 12:** Commissioner Kuboi said it is important to remember that the conditions would run with the land. He asked if the term "public access" would be something a future owner would not be able to take away. Mr. Stewart answered the condition would require a dedication of public access easement, and the public would have a right to use the easement in perpetuity.

- **Condition 13:** The Commission did not provide any specific comments about this condition.

- **Condition 14:** Commissioner Broili said he has been concerned all along that there should be a link between Aurora Avenue and the Interurban Trail. He said he does not see anything in the proposed conditions to address this connection. Mr. Stewart said there is a guarantee of public access from the trail, and there would also be an access point at 192nd.

- **Condition 15:** The Commission did not provide any specific comments about this condition.

- **Condition 16:** The Commission did not provide any specific comments about this condition.

- **Condition 17:** The Commission did not provide any specific comments about this condition.

- **Condition 18:** Commissioner McClelland noted that the house on the site would be moved. She asked if the City would help find a new location for this structure. Mr. Stewart answered negatively. He said the Condition would encourage the developer to work with historic preservation organizations to seek to preserve the Weiman house either on or off site. The condition also includes a provision that the applicant at least offer the house at no cost for removal. He emphasized that the City would have no obligation to participate in this effort.

- **Condition 19.a:** The Commission did not provide any specific comments about this condition.

- **Condition 19.b:** Chair Harris inquired if this condition would require more than the current code. Mr. Stewart answered that this is consistent with the current code, so the condition would be ambiguous. However, he said staff does not have a problem including it as part of the conditions of approval.

- **Condition 19.c:** The Commission did not provide any specific comments about this condition.

- **Condition 19.d:** The Commission did not provide any specific comments about this condition.

Commissioner Hall said that in all of the testimony received at the public hearing, there was only one person who supported the adoption of the proposal as currently conditioned. Even the applicant, when questioned, said that he would not support approval of the rezone with the conditions that were in place at the time. Of those who expressed concern about the rezone, the primary theme was regarding the protection of Echo Lake. He said that, in his opinion, the staff proposed conditions that were introduced at the beginning of the public hearing process addressed the protection of Echo Lake in a very admirable way. The Commission also received substantial oral and written testimony encouraging the redevelopment of the site. He said he believes most of the ideas put forward in the agreement between the applicant and some of the individuals who filed the SEPA appeal are redundant with the conditions originally proposed by the staff and the applicant. In some cases, they contain language that is more ambiguous and inconsistent with the City's Development Code regulations. He particularly referred to **Conditions 8, 9 and 10**, and said he believes they are largely redundant with **Condition 4**. He noted that the statement in **Condition 10,** which requires 70-feet of lake shoreline to be used for the boardwalk to the beach and dock, is currently in conflict with the City's Critical Areas Ordinance.

In addition, Commissioner Hall suggested that **Conditions 16 and 17** be withdrawn since they are duplicative of **Conditions 6 and 7**. He said he believes that **Condition 17** is less helpful than **Condition 7**. Next, Commissioner Hall said he finds **Condition 11** to be overly restrictive and gets into a level of detail that is unnecessary. If the City already requires them to have a wetland biologist develop a habitat restoration plan, then that should be the end of it. It should be left up to the professional and the staff to determine the plan's adequacy. He said he believes that **Condition 19** contains a set of requirements that is far more appropriate at the building permit stage and should be introduced there, instead. He also suggested that since **Condition 15** would not be legally enforceable, it should be deleted, as well. He noted that all of the conditions he mentioned were added at a later date, and were not initially negotiated between the staff and the applicant.

Commissioner Hall also recommended that a new condition be added to require a public access easement from Aurora Avenue on the northern half of the frontage to the site of the proposed boardwalk.

Commissioner Kuboi said he would support the removal of conditions that actually present a conflict. However, he pointed out that the other conditions represent an agreement between the applicant and some of the members of the Echo Par Group, and it appears that staff does not have a problem including them as conditions. He suggested that they run the risk of making the parties of the private agreement feel as though they were undermined by the Commission's process. This could result in a backlash that

would make it more difficult for the City Council to approve the proposal. Unless there is a conflict or flaw in the proposed conditions, he would be in favor of leaving all of them in.

Chair Harris pointed out that the City does not necessarily have to take a stance on the points that are contained in the private agreement. The private parties could still be in agreement, as long as their views do not conflict with those of the City.

Commissioner Hall said he is sensitive to Commissioner Kuboi's concerns. However, there is testimony on the record from several people who are also members of the Echo Par Group who did not support the negotiated agreement between some members of the group and the private property owner. He noted that Dr. Paulsen, Tim Crawford and Pat Crawford are all on record as being opposed to the private agreement.

Commissioner Broili noted that **Condition 4.g** states that "the maximum impervious surface allowed on the site shall not exceed 90%" and this applies to both the commercial and residential portions. He said it is his belief, and scientific evidence and professionals would agree, that they can do far better than this by using low-impact design approaches such as vegetative roofs, water catchment systems, permeable hard surfaces, geotechnical solution such as bioswales, best soil management practices as stated in the State Stormwater Manual (Section DMPT.6.13), etc. All of these low-impact design approaches would help them get to far better than 90 percent impervious area.

Secondly, Commissioner Broili referred to **Condition 6**, which states that the City shall work with the developer to install on oversized stormwater system. He suggested that the City could reach an agreement with the developers to help them apply low-impact development approaches that would reduce impervious surface dramatically, and this would reduce stormwater run off.

Commissioner McClelland asked who would enforce the conditions in the private agreement. Mr. Stewart said that if the conditions were included in the contract rezone, the City would be required to enforce them. He noted that many of the conditions are not mandatory, but are effort-based. Commissioner McClelland asked if it would be possible to separate the conditions into those that are private and those that the City could and should enforce.

Commissioner Broili suggested that he would be in favor of eliminating some of the conditions, but only if they could achieve the other two goals he identified.

COMMISSIONER HALL MOVED THAT CONDITION 17 BE DELETED SINCE IT IS REDUNDANT WITH CONDITION 7. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Commissioner Hall suggested that if the motion is approved, **Condition 7** could be amended to add the term "low-impact development." Commissioner Broili agreed, but said he would rather remove the words "shall consider" from **Condition 7** and make it more mandatory.

THE MOTION CARRIED 4-2, WITH CHAIR HARRIS AND COMMISSIONER KUBOI VOTING IN OPPOSITION AND COMMISSIONERS MACCULLY AND SANDS ABSTAINING.

COMMISSION HALL MOVED TO AMEND CONDITION 7 TO READ, "GREEN BUILDINGS. THE DEVELOPERS SHALL CONSIDER PURSUING A LEED OR BUILTGREEN CERTIFICATE FOR THE BUILDINGS IN THIS PROJECT AND SHALL CONSIDER LOW-IMPACT DEVELOPMENT TECHNIQUES SUCH AS IMPERVIOUS CONCRETE, ETC. THE MOTION DIED FOR LACK OF A SECOND.

Commissioner Broili suggested that perhaps the reference to low-impact development should be placed in **Condition 4.g.**

COMMISSIONER BROILI MOVED TO AMEND CONDITION 7 TO READ, "THE DEVELOPERS SHALL CONSIDER PERSUING A LEED CERTIFICATE FOR BUILDINGS IN THIS PROJECT." COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED, 6-0, WITH COMMISSIONER SANDS AND MACCULLY ABSTAINING.

COMMISSIONER KUBOI MOVED TO AMEND CONDITIONS 12 AND 14 TO ADD THE WORD "EASEMENT" AFTER "PUBLIC ACCESS." COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Mr. Stewart noted that the access required in **Conditions 12 and 14** could be perfected through either an easement or a dedication of an actual right-of-way. Commissioner Kuboi said he wants to make sure that these conditions assure that the public access requirement would run with the property. Mr. Stewart said "public access" is a commonly accepted condition or requirement. But how it is done, through either an easement or dedication, is an option for the developer to consider. Commissioner Kuboi recalled that at the public hearing, the applicant indicated that he did not plan to offer a dedication of sorts. Based on the applicant's comments to the Commission, it is not clear he agrees that public access means something in the form of a legal right. Mr. Stewart said staff would interpret **Conditions 12 and 14** as requiring public access from the Interurban Trail, through the buffer area and to the lake. They would not require access to Aurora Avenue or to other places.

Commissioner Kuboi said that none of the conditions speak to any sort of access right to the public access area. The applicant could build structures that facilitate people physically accessing the property, but that does not mean they would have the legal right to be there. He said he would like some assurance that the public would have a legal right to be in the area.

Commissioner Broili suggested that **Conditions 12 and 14** be combined into one succinct statement that connects Aurora Avenue and the Interurban Trail via a boardwalk. Commissioner Hall agreed with the intent of Commissioner Broili's suggestion. However, he proposed that rather than combining them they should keep the two conditions separate. To address Commissioner Kuboi's concerns he proposed an amendment to the motion that would add a sentence to **Conditions 12 and 14** and a new **Condition 20.**

COMMISSIONER HALL MOVED THAT THE MOTION BE AMENDED TO CHANGE CONDITIONS 12 AND 14 BY ADDING A SENTENCE TO EACH THAT READS, "THE PUBLIC ACCESS SHALL BE ENSURED THROUGH PERPETUITY THROUGH THE APPROPRIATE LEGAL DOCUMENT." COMMISSIONER KUBOI SECONDED THE AMENDMENT. THE AMENDED MOTION CARRIED 6-0, WITH COMMISSIONERS MACCULLY AND SANDS ABSTAINING.

COMMISSIONER HALL MOVED TO ADD A NEW CONDITION 20 THAT SAYS "THE DEVELOPERS WILL PROVIDE PUBLIC ACCESS FROM AURORA AVENUE ON THE NORTHERN HALF OF THE SITE TO THE BOARDWALK ALONG THE LAKE. THIS PUBLIC ACCESS SHALL BE ENSURED THROUGH PERPETUITY THROUGH THE APPROPRIATE LEGAL DOCUMENT." COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Hall pointed out that the proposed new **Condition 20** would provide a public access easement from Aurora Avenue to Echo Lake and would be separate from the one that would connect to the Interurban Trail. Commissioner Phisuthikul asked that the access described in **Condition 20** be required to continue to the Interurban Trail. Commissioner Hall suggested that would not be necessary. He used a drawing to illustrate that **Condition 12** would require a public access from the boardwalk to the lake, **Condition 14** would require a public access from the Interurban Trail to the boardwalk, and **Condition 20** would require an access from Aurora Avenue to the Interurban Trail. This would result in three separate access conditions.

THE MOTION CARRIED 6-0, WITH COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

COMMISSIONER HALL MOVED THAT CONDITION 10 BE DELETED FROM THE CONTRACT. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Hall said he does not dispute the value of **Condition 10.** However, the restoration and enhancement of the buffer area is dealt with in **Condition 4.h.** He acknowledged the he would rather have a wetland expert define the restoration plan. He said the public access has been provided for in **Condition 12**, and the statement relating to the beach and dock presumes something that is not in evidence as a condition. In addition, he questioned whether this would even be consistent with the City's Critical Areas Ordinance.

Commissioner Broili asked if **Condition 10** is the only place that the dock and beach are mentioned. Mr. Stewart answered affirmatively. Commissioner Broili noted that this is urban property, and a dock would be appropriate. However, he would be opposed to a beach because there is already a beach on the north end of the lake, and an additional beach could create unnecessary habitat disturbance. A dock, if done properly, could be a very nice addition to the opportunities that are present. He said he would vote against the motion as proposed.

Chair Harris agreed that the Critical Areas Ordinance does not have provisions for active recreation in buffer areas at this time. But an amendment has been proposed that the Commission could consider at a later date. He reminded the Commission that the applicant's goal is to allow a YMCA to locate on the subject property, and he believes the community would be incredibly disappointed in the Commission if they end up with a beautiful wetland with a hands-off approach. They have an opportunity to provide for active recreation, life saving classes for the YMCA children, canoeing, sail boating, etc. He pointed out that Green Lake is the most used park in the State. While the habitat is being impacted, they must balance the public's needs versus habitat needs. He said he would support more beach area if possible

THE MOTION WAS WITHDRAWN.

COMMISSIONER HALL MOVED THAT CONDITION 10 BE AMENDED BY REPLACING THE WORDS "BEACH AND DOCK" WITH THE WORD "LAKE."

Commissioner Hall suggested that the last sentence in **Condition 10** is simply a statement of intent. **Condition 10** speaks to a boardwalk without dictating at this time whether there will be a dock or not. Chair Harris noted that some of the City's strongest environmental advocates came up with the proposal.

Commissioner Hall drew an illustration to show that the reference to "70 feet of the lake shoreline" would be interpreted as a linear distance along the shoreline of the lake. The intent of his motion would not require that this be a sandy beach, but it does say that the developer would not have to restore it to its natural wetland conditions. He pointed out that 10 of the 70 feet would be intended for use as a boardwalk. Some form of public access would connect the boardwalk to the Interurban Trail and to Aurora Avenue.

Commissioner McClelland agreed with Chair Harris that there are excellent opportunities to provide for public access and use of the waterfront for recreational purposes. Commissioner Hall pointed out that the conditions, as proposed, would not require public access throughout the entire 70-foot area. According to **Condition 12,** the public access would be on the 10-foot strip that would be used for a boardwalk and not the entire 70 feet. Commissioner McClelland suggested that the residents of the 350 residential units would have expectations for amenities associated with the lake. Would people be able to run down the boardwalk and dive into the lake? Commissioner Hall said he is reasonably confident that the public could swim in any water in the state. But they cannot necessarily walk along any shoreline.

Commissioner Broili suggested that the motion be amended so that **Condition 10** would read as follows: "The developers will restore and enhance 70 feet of the lake shoreline, 10 feet of which will be used for a boardwalk and dock." He said he wants the end result to be a dock, with no beach. Commissioner Hall said he would not support Commissioner Broili's recommendation as a friendly amendment. He said he does not think they can require a dock as a permit condition when it is currently against the law in the City of Shoreline. Mr. Stewart said there might be some ability under the current regulations to construct a dock, but clearly a beach would not be allowed. Mr. Torpey said that residential property owners have been allowed to have docks under Section 20.80.030.K, which is an exemption to the

Critical Areas Ordinance that allows uses in buffers or their critical areas that are determined by the City to be minor.

Commissioner Broili said the intent of his amendment was to provide a boardwalk and dock, but no beach area. Chair Harris said he would like to make provisions for both a dock and a beach area, even though the current Critical Areas Ordinance would not allow it. Mr. Stewart said that if **Condition 10** were changed as proposed, the first sentence that requires the developer to restore and enhance all but a contiguous 70 feet of the lake shoreline would be mandatory. The second sentence is the intent to apply, and it would only be allowed or fulfilled if the Critical Areas Ordinance were amended.

THE MOTION CARRIED 4-2, WITH COMMISSIONERS BROILI AND MCCLELLAND VOTING IN OPPOSITION AND COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

Commissioner Kuboi referred to **Condition 4.a** and asked if the Commissioners are comfortable that there are enough protective measures to prevent a "big box" store (like the Target at Northgate) from being built on the subject property. Mr. Stewart reminded the Commission that the 182,000 square foot limit for commercial development would include both the north and south sites that are shown on the site plan. Commissioner Kuboi pointed out that if the YMCA is not located on the site, something akin to a low-impact "big box" store like Target could be built on the site without violating the conditions of the contract rezone. Mr. Stewart said this would depend upon the form of building that is proposed. Commissioner Kuboi expressed his concern that there could be significant deviation from the site plan, and the applicant would still remain within the terms of the contract rezone.

Commissioner Phisuthikul asked if it would be possible for the Commission to impose a condition that any proposal should include both commercial and residential development. Commissioner Kuboi said this would still not address his concern that they could end up with a large, massive structure along Aurora Avenue, which would be significantly different from the site plan the public used as a basis for picturing what would take place on the site. Commissioner McClelland agreed with Commissioner Kuboi that the site plan drawing is meaningless. If the only limitation is 182,000 square feet of commercial space and 350 housing units, the actual development could be quite different than what is identified on the site plan. She said the Commission must consider the significant impact development of this site could have on the people who live on the east side of the lake and look down on the subject property.

Commissioner Hall said he understands all of the various Commission concerns. He said he recognizes that the proposed contract conditions are not perfect, and he is not convinced they could be made perfect, either. The staff has a role in the discretionary process as part of their building permit review at a later date. He reminded the Commission that the applicant turned in his application in December of 2004, and he has been strung along by a lot of issues. The Commission has improved the conditions, and he is prepared to vote affirmative on the main motion to approve the contract rezone.

Commissioner Kuboi asked if it was discussed with the applicant whether or not the site plan would still be a workable setup for the commercial part of the development. Mr. Stewart said that in his letter of

March 28, 2005, the applicant indicated that he is okay with the way staff crafted the words in **Condition 4.a,** and staff believes that the language provides flexibility for some measure of change. They currently have a visual image of the massing and scale of the project, but they feel the developer should be allowed some flexibility to work with the market. The Commission's goal should be to ensure a high-quality development, and constraining the site too much could be detrimental to the end project.

COMMISSIONER BROILI MOVED TO AMEND CONDITION 4.g TO READ, "USING LOW IMPACT DESIGN PRACTICES SUCH AS VEGETATIVE ROOFS, A WATER CATCHMENT SYSTEM, PERMEABLE SURFACES, ETC., THE DEVELOPER SHALL CONSIDER WORKING WITH THE CITY TO NOT EXCEED 20% IMPERVIOUS SURFACE WITHIN THE COMMERCIAL PORTIONS OF THE SITE AND SHALL NOT EXCEED 20% OF THE RESIDENTIAL PORTION OF THE SITE. COMMISSIONER MCCLELLAND SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Commissioner Broili said he believes this condition would be very achievable using all of the various techniques available. He said it is to the City's best interest to reduce runoff, and by working with the developer, they could achieve this goal. The end result would be a better building, less runoff, and a better project overall. He noted that these techniques have been demonstrated locally on many sites in Seattle. In some cases, it is actually less expensive to develop in this manner.

Commissioner McClelland pointed out that Commissioner Broili's recommendation would reduce the amount of impervious surface allowed on the site from 90 percent to 20 percent. She suggested that this would require the structures to be higher in order get the allowed 182,000 square feet of commercial space. Commissioner Broili disagreed. He said there are some who would say that it is possible to achieve zero percent impervious surface.

Commissioner Hall said he does not believe it is possible to achieve less than 20 percent total impervious surface. He said he would also be very hesitant, at this late date, to introduce a condition that is so different from what has been discussed over the past six months. He strongly agreed that it would be a great benefit to the City of Shoreline to have a significant low-impact development demonstration project, and many jurisdictions have created ordinances that provide incentives in order to achieve these objectives.

Chair Harris said he has a great deal of respect and confidence in Janet Way and her people, and he trusts her on environmental issues and their group did not propose a reduction in the impervious surface requirements. He said he would not support the proposed motion.

Commissioner McClelland asked if the 90 percent identified in **Condition 4.g** is an environmental consideration or a code consideration. Mr. Stewart answered that the current code allows for up to 90 percent impervious surface in both the regional business and the high-density residential areas. However, there are additional conditions that have to do with the cleaning and discharge of water and how it is treated when it comes off the impervious surfaces. He said the City's current Stormwater

Manual regulates how the City manages the stormwater for both quantity and quality. It also regulates where the water is discharged.

Commissioner Broili said he chose a number that he is confident could be achieved, but he is also flexible. He said he would like to work for a better percentage than the 90 percent that is currently proposed, since this would be the maximum allowed. He suggested that if the City were to work with the developer, they could lower the amount of impervious surface dramatically. Chair Harris agreed with Commissioner Broili's point that the developer would have to mitigate the surface runoff, and there would be a real cost value to this effort. He suggested that the developer would explore the least costly options for accomplishing this requirement. If the lower impervious surface options were less costly, the developer would likely go that route as a cost saving measure. But he said he does not believe they need to make this a condition of the rezone.

Commissioner Phisuthikul said the low-impact techniques that Commissioner Broili referenced are included in the LEED Program Certification. These are options and avenues the design architects could use. He expressed his concern about reducing the amount of impervious surface allowed for this one specific project only.

Commissioner McClelland suggested that a better approach would be to offer incentives to developers who design projects with less than 90 percent impervious surface. Mr. Stewart pointed out that the City's definition of impervious surface in the development code is "any material that prevents absorption of stormwater into the ground." Under that definition, some of the green techniques that have been discussed would not qualify. Secondly, he pointed out that normally in a traditional development proposal, all of the buffer area would be counted as pervious surface. Under the current proposal, only the 15 feet would be counted. The gross amount of impervious surface would actually be less than 90 percent.

THE MOTION FAILED 1-5, WITH COMMISSIONER BROILI VOTING IN FAVOR, COMMISSIONERS PHISUTHIKUL, KUBOI, HALL, MCCLELLAND AND CHAIR HARRIS VOTING IN OPPOSITION, AND COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

COMMISSIONER KUBOI MOVED TO AMEND CONDITION 4.d BY REMOVING THE WORD "SURFACE." COMMISSIONER HALL SECONDED THE MOTION.

Commissioner Kuboi pointed out that surface parking and parking open to the sky is not necessarily the same thing. Parking on the surface of the ground could be the first floor of a structured parking lot, and parking open to the sky could be the top floor. He does not see that the surface aspect is relevant.

THE MOTION CARRIED 6-0, WITH COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

COMMISSIONER MCCLELLAND MOVED TO AMEND CONDITION 4.H TO CHANGE "AN APPROVED HABITAT RESTORATION PLAN" TO "FISH AND WILDLIFE HABITATION RESTORATION PLAN."

Commissioner McClelland said that when the Critical Areas Ordinance has been updated, it will refer to a Fish and Wildlife Habitat Restoration Plan, and this will become a term of art in the ordinance. Mr. Stewart said the Fish and Wildlife Habitat Conservation Area is a designated critical area that has regulations attached. The intent of **Condition 4.h** is to provide for a habitat restoration plan for fish and wildlife, but the Commission cannot speculate about what may or may not be approved in the Critical Areas Ordinance amendments. He said it would help if he could understand why the current language is not sufficient.

THE MOTION DIED FOR LACK OF A SECOND.

Commissioner Hall offered the following comments and requested that they be listed as part of the findings that are forwarded to the City Council:

- Many supporters of the proposal, including neighbors, community groups, environmental groups, and Forward Shoreline based their support, in part, on public access.
- The Comprehensive Plan policies identified in deliberations on the recommended land use designation change call for public access in this location, and these policies were already in place when the current owners purchased the property. That includes the Comprehensive Plan land use designation of the 50-foot strip of Public Open Space.
- The proposed site plan shows that there is room outside the building footprints to accommodate public access improvements that could be developed as discussed from the Interurban Trail and from Aurora Avenue. The public access conditions do not impose any additional burden on the developer.
- Public comments and letters, such as the very recent one from Pearl Noreen dated May 11th, suggest that the City Planners or the Planning Commission is somehow holding up the possible development of a YMCA. He referenced the Planning Director's statement reflected in the minutes of the April 14th meeting, "The YMCA would be permitted under current zoning. It is not dependent upon either a Comprehensive Plan change or a rezone."
- Some from the public indicated that it is difficult to do business in Shoreline. Rezones require public hearings, and it the duty of the City and the Planning Commission to conduct these public hearings. He was pleased at the number of people who participated. All of his comments and amendments are based on testimony he heard and letters he received that are on the public record.
- The State law allows for appeals, and in this case, the SEPA determination was appealed. This caused a delay in the process through no fault of the City or the Planning Commission. The City worked with the Hearing Examiner and all parties to agree to a process and schedule for the joint hearing of the Planning Commission and Hearing Examiner. The withdrawal of the SEPA appeal by some of the appellants and the attempt not to withdraw by others brought into question whether the SEPA appellants had a uniform, legitimate interest in environmental issues or if some of them were actually seeking to strike out against the City's contemplation of a City Hall, etc.

- He agrees with Dr. Paulsen's recent concern in her letter about the last minute changes to the conditions. This did a disservice to the community, the Planning Commission and the City.
- There were members of the public, including some of the SEPA appellants, who made remarks about it being inappropriate for the Commissioners to talk to City staff. Remarks were also made about the Commission's decision to impose time limits during the hearing. They received clarification on these issues from the City Attorney. Time limits are a well-established and completely legal way of insuring that everyone in the community has an equal opportunity to participate in local land use decision-making processes rather than allowing outside interests to dominate the discussion and have undue effect on local land use decisions.

Mr. Stewart reread the main motion as follows:

COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF THE REZONE APPLICATION FOR 201372 FROM R-48 AND REGIONAL BUSINESS TO REGIONAL BUSINESS WITH CONTRACT ZONE BASED ON THE FINDINGS PRESENTED IN ATTACHMENT E OF THE STAFF REPORT AND WITH THE PROPOSED CONDITIONS OF THE REZONE PRESENTED IN ATTACHMENT A AS AMENDED. COMMISSIONER BROILI SECONDED THE MOTION.

THE MOTION CARRIED 6-0, WITH COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

b. Critical Areas Ordinance Deliberations

There was not sufficient time for the Commission to deliberate on the Critical Areas Ordinance.

11. NEW BUSINESS

There was no new business scheduled on the agenda.

12. AGENDA FOR NEXT MEETING

Mr. Stewart noted that there have been some requests to schedule a discussion on the "sidewalk in lieu of program" on an agenda in the near future. While staff is prepared to discuss this issue with the Commission, they feel the code enforcement update and the Critical Areas Ordinance review should be completed first.

Chair Harris noted that Cottage Housing and the Critical Areas Ordinance are scheduled on the June 2nd meeting agenda.

13. ADJOURNMENT

The meeting was adjourned at 10:25 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

ATTACHMENT B

Ordinance No. 390
Harper Rezone File No. 201277

ORDINANCE NO. 390

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP TILE NUMBER 429 TO CHANGE THE ZONING OF ONE PARCEL LOCATED AT 19671 15TH AVE NE (PARCEL NUMBER 3971701190) FROM RESIDENTIAL 6 DU-AC (R-6) TO RESIDENTIAL 24 DU-AC (R-24).

WHEREAS, the property with parcel number 3971701190 is designated on the Comprehensive Plan Map as High Density Residential (HDR); and

WHEREAS, the owner of the property, with parcel number 3971701190, has filed an application to reclassify the property from Residential 6 units per acre (R-6) to Residential 24 units per acre (R-24); and

WHEREAS, on March 3, 2005, a public hearing on the application for reclassification of property was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on May 19, 2005, the Planning Commission recommended approval of the reclassification to R-24 and entered findings of fact and conclusions based thereon in support of that recommendation; and

WHEREAS, the City Council does concur with the Findings and Recommendation of the Planning Commission, specifically that the reclassification of property, located at 19671 15th Ave NE (parcel number 3971701190) to R-24 is consistent with the Comprehensive Plan and appropriate for this site;

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

Section 1. Findings. The Findings and Recommendation on File No. 201277 as set forth by the Planning Commission on May 19, 2005 and as attached hereto as Exhibit 1 is hereby adopted.

Section 2. Amendment to Zoning Map. The Official Zoning Map Tile 429 of the City of Shoreline is hereby amended to change the zoning classification of said parcel, located at 19671 15th Ave NE (parcel number 3971701190) and further described and depicted in Exhibit 2 attached hereto, from R-6 to R-24.

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 Ordinance, or the application of such provision to other persons or circumstances, shall not be affected.

Section 4. 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 13, 2005.

Mayor Ronald B. Hansen

ATTEST:

Sharon Mattioli, CMC
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

ORD NO 390
EXHIBIT 1

FINDINGS AND DETERMINATION OF THE CITY OF SHORELINE PLANNING COMMISSION

John Harper Rezone Request
File #201277

Summary-
Following the public hearing and deliberation on the request to change the zoning of a 9,307 Sq. Ft. parcel located at 19671 15th Ave NE, the City of Shoreline Planning Commission has determined that the request is in compliance with City codes and not detrimental to the health, safety, or welfare of the City of Shoreline, and therefore recommends approval of such action.

I. FINDINGS OF FACT

1. Project Description-

1.1 Action: Rezone the subject parcel from R-6 (Residential 6 units per acre) to R-24 (Residential 24 units per acre).

1.2 Vicinity: 19671 15th Ave NE

1.3 Parcel Number: 3971701190

1.4 A concurrent proposal to change the land use designation of this parcel from Ballinger Special Study Area to HDR has been filed and is under review by the Shoreline City Council. If the Shoreline City Council approves the request this parcel will be designated as HDR. Consistent zoning for the HDR land use designation ranges from R-12 to R-48. The proposed rezoning of this parcel from R-6 to R-24 following the proposed change in land use designation would be consistent with the new comprehensive plan designation.

2. Procedural History-

2.1 City Council is scheduled to hold a Public Hearing on the 2004-2005 Comprehensive Plan Annual Review Docket (which is comprised of four Site Specific Land Use Designation change requests) on June 6, 2005 and expects to adopt them on June 13, 2005.

2.2 Planning Commission deliberations on the request for change in land use designation and findings in support of request: April 14, 2005

2.3 Public hearing held by the Planning Commission: March 3, 2005

2.4 Corrected Notice of Public Hearing and SEPA Determination of Nonsignificance: February 16, 2005

2.5 Notice of Public Hearing and SEPA Determination of Nonsignificance: February 10, 2005

2.6 End of 14 day Public Comment Period: February 4, 2005

2.7 Notice of Application with Optional DNS: January 20, 2005

2.8 Complete Application Date: January 14, 2005

2.9 Application Date: December 13, 2004

2.10 Neighborhood meeting Date: April 28, 2004

2.11 Pre-Application Meeting Date: April 8, 2004

2.12 Notification of Neighborhood Meeting: April 14, 2004

3 Public Comment-

3.1 Oral testimony at the Public Hearing has been received from:

Janet Way- 940 NE 147th St.

4 SEPA Determination-

4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. A Notice of Application that stated the lead agency's intent to issue a DNS for this project was issued on January 20, 2005 and a 14-day comment period followed ending February 4, 2005. City staff determined that the proposal will not have a probable significant adverse impact on the environment and that an environmental impact statement is not required under RCW 43.21C.030(2)(c). This decision was made after visits to the project site and review of the environmental checklist, and other information on file with the City (there was no public comment received). A notice of determination of nonsiginificance was issued on February 10, 2005. That notice was corrected to properly reflect the appeal period and was re-issued on February 16, 2005.

5. Consistency-

5.1 Site Rezone:

The application has been evaluated and found to be consistent with the five criteria listed in Shoreline Municipal Code Section 20.30.320 (B).

II. CONCLUSIONS

Rezone requests are subject to the criteria contained in the Development Code. The proposal must meet the decision criteria listed in Section 20.30.320(B) of the SMC. The criteria are listed below, with a brief discussion of how the request meets the criteria.

SITE REZONE CRITERIA:

1. **The rezone is consistent with the Comprehensive Plan.**
   If the Shoreline City Council approves the request to designate this parcel as High Density Residential, the rezoning of this parcel from R-6 to R-24 will be consistent with the parcel's new Comprehensive Plan land use designation. The following is the description of the High Density Residential Designation (This definition is identical in both the 1998 Comprehensive Plan and the 2004 Planning Commission Recommended Comprehensive Plan Draft):

   > "High Density Residential designation is intended for areas near employment and commercial areas; where high levels of transit service are present or likely; and areas currently zoned high density residential. This designation creates a transition between high intensity uses, including commercial uses, to lower intensity residential uses. All residential housing types are permitted. The permitted base density for this designation will not exceed 48 dwelling units per acre unless a neighborhood plan, subarea plan or special district overlay plan has been approved. Appropriate zoning for this designation is R-12, R-18, R-24 or R-48 Residential."

2. **The rezone will not adversely affect the public health, safety or general welfare.**
   The future development of this site shall show compliance with Title 20 of the Shoreline Municipal Code. Applicable sections of this code include, but are not limited to: Dimensional and Density Standards (20.50.010-20.50.050), Tree Conservation (20.50.290-20.50.370), Parking Access and Circulation (20.50.380-20.50.440), Wastewater, Water Supply and Fire Protection (20.60.030-20.60.050), Surface and Stormwater Management (20.60.060-20.60.130). Compliance with these sections of code has proven sufficient to protect public health, safety, and general welfare.

3. **The rezone is warranted in order to achieve consistency with the Comprehensive Plan.**
   If the Shoreline City Council approves the request to designate this parcel as High Density Residential, the concurrent proposal to rezone the parcel from R-6 to R-24 would be consistent with the new Land Use Designation of the parcel. See Site Rezone Criteria #1 above.

4. **The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.**
   It has been shown that the rezone and future development of the subject site will not be detrimental to uses in the immediate vicinity, and in fact the rezone would make the parcel consistent with the surrounding zoning. Adequate infrastructure (water, sewer, storm, etc.) exists in the area to support development at R-24 zoning. This has been verified through Certificate of water and sewer availability provided by the utility purveyors, and initial review of the City stormwater infrastructure.

5. **The rezone has merit and value for the community.**
   The rezone will help the City achieve the housing targets established by the Comprehensive Plan and required by the GMA. Further, this site is an appropriate place to accommodate development, as the surrounding area is zoned at the same high density of R-24. A map depicting this zoning is attached as **Attachment I**. The rezone also has merit and is a good candidate because the site is free of environmentally sensitive features, and because of good proximity to infrastructure (15th NE).

CONCLUSIONS:
Previous findings made by the Planning Commission (as identified above) in support of the associated Comprehensive Plan land use designation change request (that is being processed as a separate action) indicate that this change is consistent with the characteristics of the surrounding neighborhood. The re-zoning of this parcel from R-6 to R-24 would be warranted to achieve consistency with the Comprehensive Plan if the Shoreline City Council approves the request for re-designation of this parcel as High Density Residential (HDR).

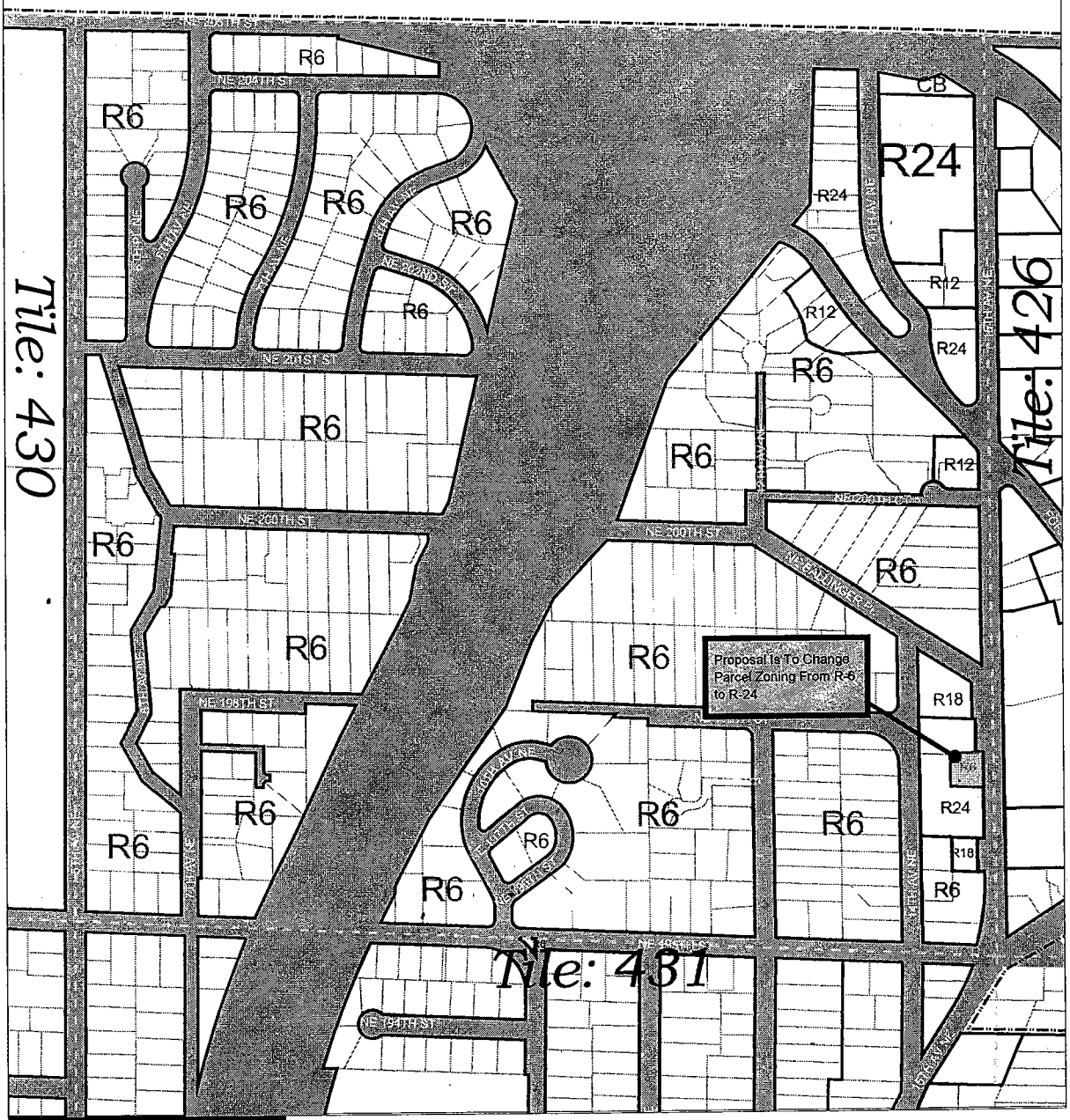
III. RECOMMENDATION

Based on the Findings, and if the Shoreline City Council approves the request for re-designation of this parcel as High Density Residential (HDR), the Planning Commission recommends approval of application #201277; a request to change the zoning for parcel number 3971701190 located at 19671 15th Ave NE from R-6 to R-24.

City of Shoreline Planning Commission

Chairperson Date: 5/26/2005

ORD NO. 390 EXHIBIT 2



SHORELINE

GEOGRAPHIC INFORMATION SERVICES

City of Shoreline Zoning

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

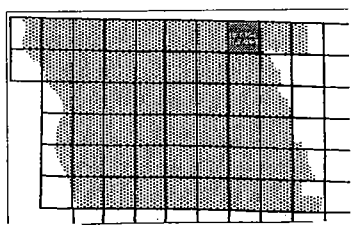
8
TILE429
NE 5-26-4

Legend

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

Map Index Line
Parcel Line
Zone District Boundary
City Boundary
Unclassified ROW (Street name shown for info only)

Map Index Locator



N
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CITY OF SHORELINE

0 100 200 300 400 Feet

Project name: j:\gis\users\stephena\gisproject\zoning-index\TILE#1-10\tile8-429-.apr Plot date: Jan 8, 2002; Tile 429-8

ATTACHMENT C

Ordinance No. 389
Echo Lake Rezone File No. 201372

ORDINANCE NO. 389

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S ZONING MAP (TILE # 435) TO CHANGE THE ZONING FROM, RB, REGIONAL BUSINESS AND R-48, RESIDENTIAL, 48 UNITS PER ACRE, TO REGIONAL BUSINESS WITH CONTRACT ZONE #RB-CZ-05-01, SUBJECT TO RESTRICTIVE COVENANTS, FOR THE PROPERTY GENERALLY LOCATED AT THE SOUTH END OF ECHO LAKE, 19250 AURORA AVENUE NORTH, PARCEL #2222900040.

WHEREAS, the subject property, located generally at the northeast corner of Aurora Ave. N. and N. 192nd Street, west of the Interurban Trail and south of Echo Lake is split-zoned between RB, Regional Business and R-48, Residential 48 units per acre; and

WHEREAS, the owners have applied to rezone the entire property to Regional Business with a Concomitant Agreement called a Contract Zone; and

WHEREAS, Council has approved a Comprehensive Plan Map amendment to change that portion of the parcel that is designated High Density Residential to Mixed Use; and

WHEREAS, the Planning Commission considered the application for zone change at a public hearing on May 4 and 5, 2005, and has recommended approval, as subject to a concomitant zoning agreement as a covenant restricting the uses and setting conditions of development as specified in this Contract Zone and Concomitant Zoning Agreement #RB-CZ-05-01; and

WHEREAS, a Mitigated Determination of Non-Significance has been issued for the proposal pursuant to the State Environmental Policy Act; and

WHEREAS, the City Council concurs with the Findings and Recommendation of the Planning Commission and determines that the proposed Concomitant Zoning Agreement should be approved to accommodate a mix of residential and commercial development as consistent with the goals and policies of the City's Comprehensive Plan;

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

Section 1. Findings. The Planning Commission's Findings and Recommendation to approve the concomitant rezone of the parcel, more fully described and depicted in **Exhibit A**, attached hereto, are hereby adopted.

Section 2. Amendment to Zoning Map. The Official Zoning Map Tile 435 of the City of Shoreline adopted by Ordinance No. 292 is hereby amended to change the zoning classification of

that certain property described and depicted in **Exhibit B** attached hereto, from RB, Regional Business, and R-48, Residential, 48 units per acre, to Regional Business with Contract Zone #RB-CZ-05-01 subject to the Concomitant Zoning Agreement attached hereto as **Exhibit C**, which covenant is incorporated herein as part of this ordinance by reference, and all uses of the property rezoned by this ordinance shall be in strict conformity with the provisions of the concomitant zoning agreement. Nothing in this ordinance or the concomitant zoning agreement attached hereto shall limit the Shoreline City Council from amending, modifying, or terminating the land use designation adopted by this ordinance.

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 Covenant, or the application of such provision to other persons or circumstances, shall not be affected.

Section 4. Effective Date and Reversion. This ordinance shall go into effect five days after passage, publication of the title as a summary of this ordinance and the proper execution and recording of the Concomitant Zoning Agreement attached hereto as **Exhibit C**; provided, that if such Agreement is not executed and recorded within thirty days from the date of final passage of this ordinance, this ordinance shall become void and not go into effect. If a complete building application for development of the property rezoned by this ordinance is not filed within three (3) years of the effective date of this ordinance, or owners of all interest in the property file a written request, the property shall revert to the original land use designations or such other default land use designation as may hereafter be adopted by the City Council.

PASSED BY THE CITY COUNCIL ON June 13, 2005.

Ronald B. Hansen, Mayor

ATTEST:

Sharon Mattioli, MMC
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of Publication: June 16, 2005
Effective Date: July 18, 2005

PLANNING COMMISSION FINDINGS AND RECOMMENDATION
CITY OF SHORELINE, WASHINGTON

Echo Lake Rezone File No. 201372
19250 Aurora Avenue North

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

I. FINDINGS OF FACT

1. Project Description-

1.1 Modify the existing zoning designations for an 8.61-acre, split-zoned parcel located on the south shore of Echo Lake, at 19250 Aurora Ave. N. The proposal is to change the zoning of the entire parcel to RB-CZ, Regional Business with contract zone, in order to facilitate a cohesive mixed use development.

1.2 Existing zoning: the site is currently split-zoned, with 2.21 acres of RB and 6.4 acres of R-48, high density residential.

1.3 Comprehensive Plan Designation: Current Comprehensive Plan designations for the parcel are as follows: the western portion of the site (approximately 1.85 acres) is designated as MU, Mixed Use, the eastern portion (approximately 6.1 acres) is designated as HDR, High Density Residential. There is a 50-foot wide strip (approximately 34,773 square feet) along the northern border from Aurora to the inter-urban trail that is designated POS, Public Open Space. This rezone request cannot be approved unless and until the Comprehensive Plan land use map is changed to a designation that supports the Regional Business zone. A High Density Residential designation does not support a Regional Business zoning designation. At it's April 21, 2005 meeting, the Planning Commission voted to recommend approval of changing that portion of the Comprehensive Plan map designated High Density Residential to Mixed Use, which would support the requested change.

1.4 Location: 19250 Aurora Ave. N.

1.5 Parcel Number: 2222900040

1.6 Site Description: The subject site is generally located at the southern end of Echo Lake, currently occupied by the Holiday Resort trailer park, an abandoned restaurant, a gas station/minimart, and a used car dealership.

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

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

2. Procedural History-

2.1 Planning Commission meeting for deliberation on the rezone May 19, 2005.

2.2 Public hearing held by the Planning Commission on the rezone with joint SEPA Appeal hearing held by the Hearing Examiner May 4 and 5, 2005.

2.3 Public hearing held on the site-specific Comprehensive Plan amendment by the Planning Commission: April 14, 2005

2.4 SEPA Determination for the rezone appealed March 2, 2005

2.5 Notice of Public Hearing and SEPA Threshold Determination: February 15, 2005.

2.6 End of 14 day Public Comment Period: February 4, 2005

2.7 Notice of Application & Preliminary SEPA Threshold Determination for combined action:* January 20, 2005

2.8 Complete Application Date: January 14, 2005

2.9 Application Date: December 30, 2004

2.10 Neighborhood meeting Date: December 8, 2004

2.11 Pre-Application Meeting Date: August 20, 2004

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

Public Comment-

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

Donna Nicholls-Riegelhuth
Virginia Paulsen, Ph.D
Tracy Tallman
Barbara Lacy
Ann K. Wennerstrom
Elizabeth Mooney
Kevin S. Reeve
Guy Olivera
Donn Charnley
Janet Way
Shoreline Merchants Association
Eileen Dunnihoo
Cindy Ryu
Brian Derdowski
MichelleGriffith
Kevin M. Gadzuk
Anita Smith
Harley O'Neil , Echo Lake Associates
Michael Trower, Catapult Community Development
Tim Smith
Dale & Norma Hanberg
Randy Hoverson
Lori Hozjan
Marci Hanberg
Lacey O'Neil
Evan Voltsis
Lindsay & Franco Sanagustin
Caralee Cook
Traci Gradwohl
Pawel & Elzbieta Kutek
Cindy Williamson
Forward Shoreline
Stephen J. Dunn
Tim & Patty Crawford
Pearl Noreen
Bob & Pat Scott
Ken Lyons
Mike Marinella
Marlin Gabbert
Michelle McFadden
Jim Abbott
Dave Conlon
Peter Henry
Carol Murrin

SEPA Determination-

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

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

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

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

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

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

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

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

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

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

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

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

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

Drainage and Piped Watercourse. A 30-inch corrugated piped conveyance runs along the west property line of the site, in the Aurora Ave. N. right-of-way at a depth of between 10 feet at the south end to near 20 feet towards the north end. The depth is needed because it is running counter to the natural topography. The pipe turns to the east at the northwest corner of the site, following the north property line of the site, then flows into Echo Lake. A 1958 map that depicted an 18-inch culvert under Aurora Avenue and those along 192nd indicate the historic presence of water at these points. Road builders and road engineers placed culverts at known places of water to protect the road bed and prevent ponding of water adjacent to roads. Size of culverts gives only a relative indication of amount of water. The sizes used at Aurora and 192nd were 18-inch diameter. Road culverts typically were placed at natural points, i.e. stream channel, or somewhat on convenience of down-stream impacts, i.e. not towards a house but select forested undeveloped tract of land. The 1958 map depicts 3-surface inlets (two12-inch pipes and one18-inch pipe) with one 18-inch outlet pipe. This indicates that the inflows were not great, as the outlet pipe would have been larger than 18 inches. The current Metro park-n-ride was a bog that drained towards Echo Lake via N. 192nd St. It then flowed in a 12-inch pipe under the mobile home park and into Echo Lake.

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

The smaller catch basin system on site is an older system that collects site drainage. The southern portion flows south and connects with the bigger pipe, which then flows north. The northern section of the smaller pipe flows north and connects directly to the lake. The City's Stream and Wetland Inventory shows only one conveyance, dubbed EL2. It appears to show the large conveyance turning east at about the midpoint between the south and north ends of the large pipe, then going through the property and along to the lake. There are in fact currently two systems, the larger one that runs south to north in the right-of-way before turning east onto private property at the north property line of the project site, and the smaller catch basin system on site. Piping installed prior to1973 (adoption of federal Clean Water Act), would be considered part of the stormwater conveyance system, and not a stream.

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Consistency-

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

Rezone criteria (SMC 20.30.320(B))

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

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

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

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

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

Critical Areas 20.80
Dimensional and Density Standards 20.50.010-20.50.050
Parking Access and Circulation 20.50.380-20.50-440
Wastewater, Water Supply and Fire Protection 20.60.030-20.60.050
Surface and Stormwater Management 20.60.060-20.60.130

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

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

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

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

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

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

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

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

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

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

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

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

II. CONCLUSIONS

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

III. RECOMMENDATION

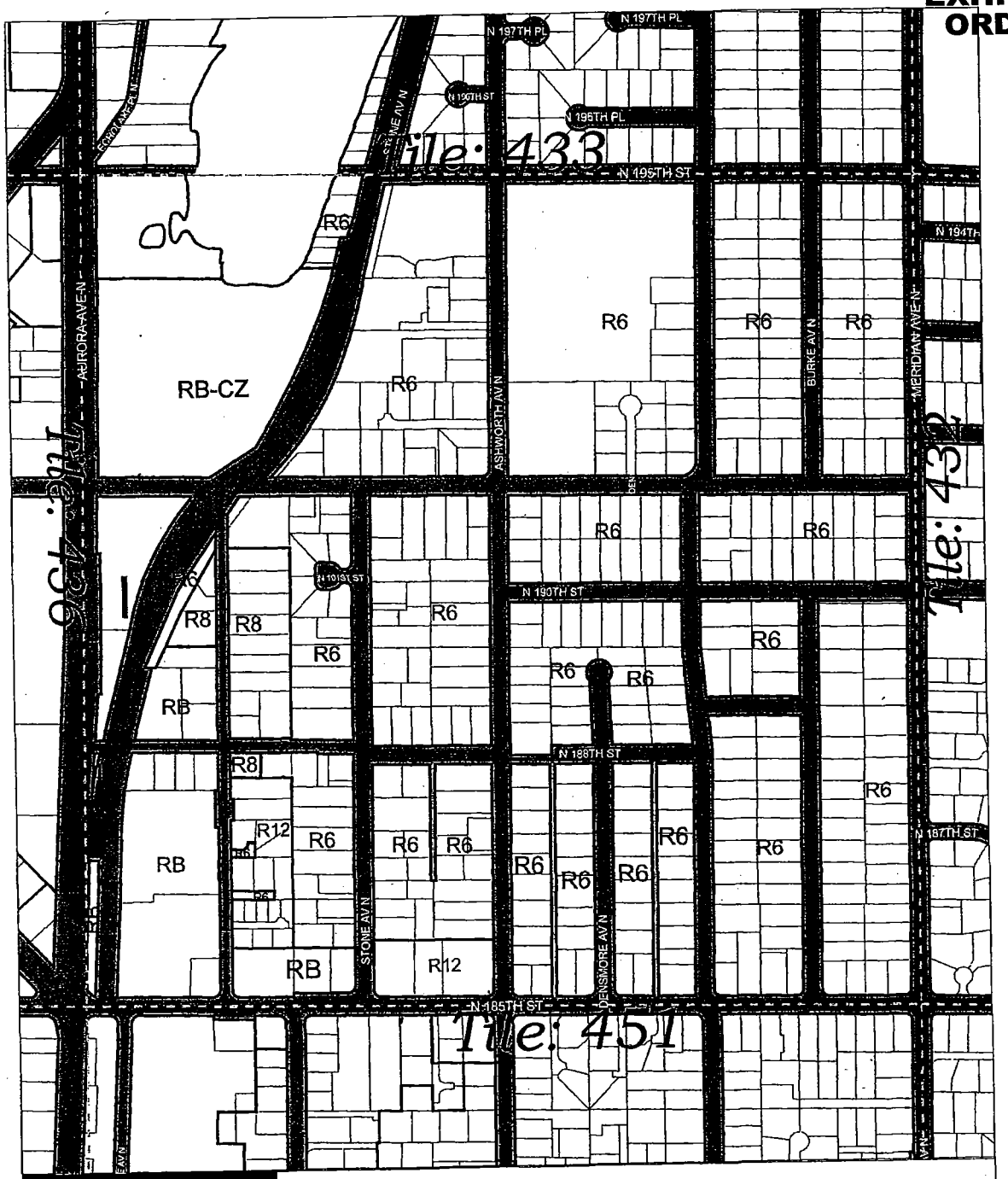
Based on the Findings, the Planning Commission recommends approval of a request to modify the existing zoning designations, applied for under permit #201372, for the parcel located on the south shore of Echo Lake, at 19250 Aurora Ave. N., to change the zoning of the entire parcel to RB-CZ, Regional Business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

City of Shoreline Planning Commission

David Harris 5/26/2005

David Harris, Planning Commission Chair Date

EXHIBIT B
ORD. 389



SHORELINE

GEOGRAPHIC INFORMATION SERVICES

City of Shoreline Zoning

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

18
TILE435
SE 6-26-4

Legend

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

Map Index Line
Parcel Line
Zone District Boundary
City Boundary
Unclassified ROW

Map Index Locator

N
S

CITY OF SHORELINE

0 100 200 300 400 Feet

Project name: J:\gis\users\ta\stephens\gisproject\zoning-index\TILE#13-22\tile18-435.apr Plot date: Jan 8, 2002; Tile 435-18

EXHIBIT C
Ordinance No. 389

CONCOMITANT REZONE AGREEMENT AND COVENANT RUNNING WITH THE LAND

Contract Zone No. RB-CZ-05-01

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

RECITALS

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

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

(Hereafter described as "Property").

B. Owner has applied to rezone the Property from its current zoning, to Contract Zone, consistent with the Comprehensive Plan adopted by the City pursuant to the Growth Management Act (RCW Ch.36.70A).

C. The City has conditionally approved the rezone application provided the Property is developed under conditions and limitations, which shall be considered as a qualification to the City's zoning designation.

NOW THEREFORE, the City and Owners agree as follows:

1. **Title.** Owners are the sole and exclusive owners of the Property described above.

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

3. **Uses.** The Owners or their successors may construct a mixed use development on the Property subject to the conditions recited in Exhibit C-1 attached hereto.

4. **Binding Effect.** This Covenant shall remain in full force and effect, and be binding upon the Owners and their successors and assigns until 1) amended, modified or terminated by an ordinance adopted by the Shoreline City Council, 2) Owners fail to file a complete building permit application within three (3) years of the effective date of recording this covenant, or 3) Owners of all interest in the property file a written declaration with the City that they wish the Property to revert to the RB and R-48 land use designations existing immediately prior to passage of Ordinance No. 389 or such other default zoning as may have been adopted by the City Council for the Property subsequent to this agreement. Obligations contained herein shall be enforceable against all such successors and assigns.

5. **Filing.** A copy of this covenant will be filed for record with the King County Records and Elections Division.

6. **Remedies.** Violations of this Covenant shall be enforced by the City according to enforcement procedures applicable to zoning code violations.

7. **Attorney Fees.** In the event that legal action is commenced to enforce or interpret any revision of this Covenant, including any appeal thereof, the substantially prevailing party shall be entitled to its costs including reasonable attorney's fees.

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

OWNER(s)

_____

_____

CITY OF SHORELINE

_____

Steve Burkett, City Manager

APPROVED AS TO FORM:

_____

Ian Sievers, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

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

DATED:_____

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

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

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

DATED:_____

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

EXHIBIT C-1
Ordinance No. 389

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

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

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

1. This Contract Rezone Agreement must be ratified by all parties and recorded against the properties in order to be a valid agreement. (Staff and O'Neil, 3/28/05)

2. The project shall comply with all mitigation measures as specified in the Mitigated Determination of Non-Significance (MDNS). (Staff and O'Neil, 3/28/05).

3. Developer shall provide a 115 foot buffer around the wetland (O'Neil, 3/28/05).

4. The zoning designation shall be RB-CZ, Regional Business with Contract Zone. The uses and design of the property, including but not limited to provisions for critical areas, off-site improvements, site grading and tree preservation, landscaping, stormwater control, and dimensional and design standards, shall comply with provisions for mixed use developments in the RB zoning district as set forth in the Shoreline Municipal Code (SMC) with the following additional property conditions:

    a. Site configuration and uses shall generally comply with the site plan submitted with the application, with housing units mainly contained on the east side of the property and commercial uses on the west side of the property. Up to 10,000 square feet of retail is allowed on the east side of the property. Minor changes to the site plan may be subsequently approved by the City of Shoreline Planning and Development Services Director or designee. (Staff, O'Neil, 03/28/05).
    b. Residential density on the eastern portion of the site shall be limited to 350 units. The developer will attempt to incorporate up to 100 units of housing affordable to medium and low income households depending on the availability of subsidies for such housing. (O'Neil, 03/28/05).
    c. Commercial floor area shall be limited to 182,000 square feet. Commercial floor area may be reduced further as replaced by residential units. (O'Neil, 03/28/05).

d. No more than 50% of the required parking shall be ~~surface~~ parking open to the sky. (Staff, 05/06/25).
e. Parking reduction of up to 20% from the maximum required by SMC 20.50.390 is allowed pursuant to SMC 20.50.400. (Staff, 05/08/05).
f. In order to protect solar access for the first 50 feet of the wetland buffer (water-ward), the applicant shall use best effort to demonstrate that the proposed structures will not shade these open spaces on March 21st or September 23rd at noon. (Commissioner Chakorn, 05/05/05). Further, solar access shall be considered when designing the final site plan, so as to allow southern exposure to the project's common open areas.
g. Maximum impervious surface allowed on the site shall not exceed 90% for development within the commercial portion of the site, and shall not exceed 90% in the residential portion of the site. The open space area required for 100 feet of the wetland buffer shall not be included in this calculation. (Staff and O'Neil, 03/28/05).
h. The provisions of SMC 20.50.350 (B) shall not apply to this site outside of the wetland and its buffer. However, the developers shall preserve as many significant trees as possible, consistent with their design parameters. An approved habitat restoration plan must be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site, in accordance with SMC 20.80.090 and 20.80.350, and with additional conditions listed below. (Staff, 05/06/05, O'Neil, 03/28/05 and Way-O'Neil Agreement 05/04/05, #14).

5. Vermin abatement shall take place prior to and during demolition and decommissioning of current site. Proof of abatement shall be submitted as part of the demolition permit application. (Staff with O'Neil 03/28/05)

6. Stormwater treatment: At a minimum, Level 2 water quality and stormwater detention are required for development, in accordance with the Shoreline Municipal Code (SMC) and the King County Surface Water Design Manual, as adopted by the City of Shoreline. Additionally, the developer shall consider working with the City to install an oversize a stormwater system to further improve Echo Lake water quality including the possibility of adding a water feature and open water course as the means of discharge into the Lake. (Staff with O'Neil 03/28/05). *NOTE: this provision conflicts with Way-O'Neil Agreement #10 to additionally use the Department of Ecology's Manual. While Way-O'Neil may agree to fulfill this agreement through the use of a third party review, the City of Shoreline will not be responsible for meeting #10 of the Way-O'Neil Agreement. In the event of a conflict between the DOE Manual and the City's adopted Stormwater manual, the City's manual shall prevail.*

7. Green Buildings. The developers shall consider pursuing a LEED ~~or BuiltGreen~~ certificate for the buildings in this project. (Staff and O'Neil 03/28/05).

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

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

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

9. The developers will not take any actions that result in further significant degradation of the wetland or buffer. The developers will use their best efforts to preserve and enhance the existing higher quality shoreline areas at the eastern and western boundaries. [Agreement #2]

10. The developers will restore and enhance all but a contiguous 70 feet of the lake shoreline, 10 feet of which will be used for a boardwalk to the ~~beach and dock~~ lake. Within this 70-foot area, the developers intend to apply for a permit to construct a publicly accessible beach and dock. [Agreement #3]

11. The restored areas of the shoreline will consist of: [Agreement #4]

    a. A ten-foot area along the fully submerged portions of the lake's shoreline that will be planted with native plants that are compatible with and will enhance the lake's ecology and wildlife.
    b. A ten-foot area along the shoreline that has a sufficiently high water table to support native plants that are compatible with and will enhance the shoreline's ecology and wildlife. If necessary and supported by Best Available Science, some grading may be required to establish a new grade that will support wetland plants within this area. Any wetland area created in this manner shall not be considered a new wetland boundary for the purposes of future buffer calculation. This requirement will not apply if the ground water is not sufficiently high to sustain moist soils-dependent plants.
    c. A 55-foot area along the shoreline that is adjacent to the ten-foot area described above will be planted with native plants that are appropriate for wetland uplands areas and that support the lake's ecology and wildlife.

12. The developers will construct a boardwalk with public access through the buffer area. This boardwalk shall not intrude within the existing natural or newly restored areas described above. The boardwalk shall be constructed with kick-rails and signage to discourage public intrusion into the natural areas, and shall utilize materials and construction methods that are based on Best Available Science for natural and wetland areas. The public access shall be ensured through perpetuity through the appropriate legal document. [Agreement #5]

13. The developers shall ensure that all plantings are established and self-sustaining. The developers will implement a monitoring and maintenance plan, for two years, consistent with the wetland biologist's recommendations. [Agreement #6]

14. The developers will provide handicap accessible public access from the Interurban Trail to the project site (subject to obtaining easement from Seattle City Light [SCL]). Developer will ensure that the privacy screening required by the SEPA mitigation measure is not compromised by any such access. If access is from the private SCL right-of-way designated Stone Ave. N., the Developer will work with the City to facilitate installation of signage that prohibits public parking on the private road. The public access shall be ensured through perpetuity through the appropriate legal document. [Agreement #7, modified]

15. The developers will cooperate with efforts of the City and upstream property owners to apply effective water quality treatment to storm water flows originating off-site. This may include

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

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

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

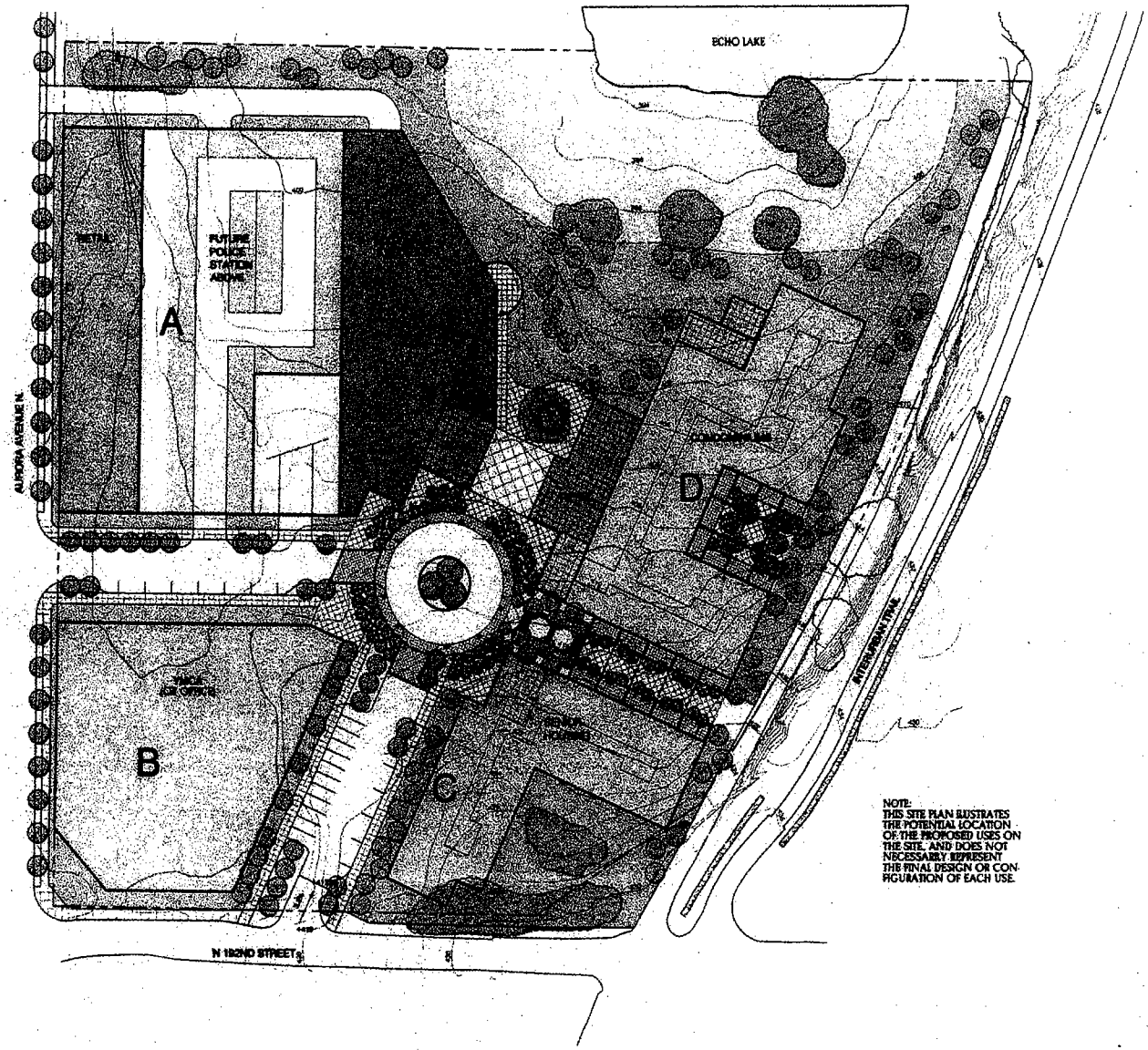
~~18.~~17. The developers shall work with historic preservation organizations to seek to preserve the Weiman house. This assistance includes developer's agreement to offer the house at no cost for removal from site. [Agreement #12]

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

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

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

SITE PLAN



206

HEWITT
ARCHITECTS

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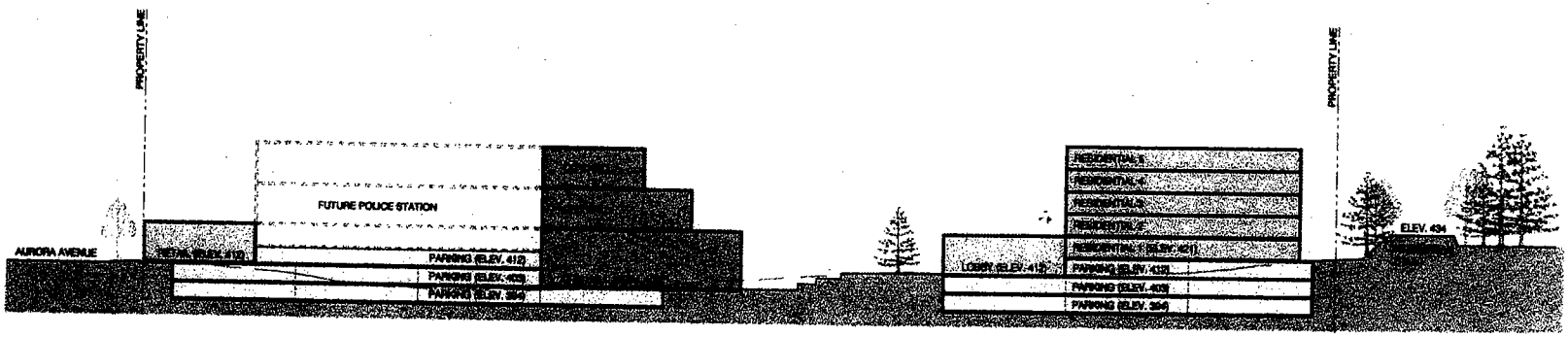
0 20 40 80

ILLUSTRATIVE SITE PLAN

ECHO LAKE
04057 12804

201372

SITE SECTIONS



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

208

HEWITT
ARCHITECTS

0 15 30 60

SITE SECTION (Looking North)

ECHO LAKE
04057 12804

ATTACHMENT D

Planning Commission Findings of Denial
Crosby Rezone File No. 201371

FINDINGS AND DETERMINATION OF THE CITY OF SHORELINE PLANNING COMMISSION

Rick Crosby Rezone Request
File #201371

Summary-
Following the public hearing and deliberation on the request to change the zoning from R-6 to R-24 of a 7,923 Sq. Ft. parcel located on the northwest corner of N 160th St. and Fremont Pl. N, the City of Shoreline Planning Commission has determined that the request is in conflict with it's previous findings made on April 14, 2005 regarding a request to change the Comprehensive Plan land use designation of this parcel from LDR to HDR and therefore recommends denial of such action.

I. FINDINGS OF FACT

1. Project Description-

1.1 Action: Rezone the subject parcel from R-6 (Residential 6 units per acre) to R-24 (Residential 24 units per acre).

1.2 Vicinity: Northwest corner of N 160th St. and Fremont Pl. N

1.3 Parcel Number: 3299200076

1.4 A concurrent proposal to change the land use designation of this parcel from LDR to HDR has been filed and is under review by the Shoreline City Council. The City of Shoreline Planning Commission has made a finding that the request for higher density in land use designation would cause too great of an impact on the neighboring community and is recommending denial of this request to City Council.

2. Procedural History-

2.1 City Council is scheduled to hold a Public Hearing on the 2004-2005 Comprehensive Plan Annual Review Docket (which is comprised of four Site Specific Land Use Designation change requests) on June 6, 2005 and expects to adopt them on June 13, 2005.

2.2 Planning Commission deliberations and findings of denial on the request for change in Comprehensive Plan land use designation: April 14, 2005

2.3 Public hearing held by the Planning Commission: March 3, 2005

2.4 Corrected Notice of Public Hearing and SEPA Determination of Nonsignificance: February 16, 2005

2.5 Notice of Public Hearing and SEPA Determination of Nonsignificance: February 10, 2005

2.6 End of 14 day Public Comment Period: February 4, 2005

2.7 Notice of Application with Optional DNS: January 20, 2005

2.8 Complete Application Date: January 14, 2005

2.9 Application Date: December 13, 2004

2.10 Neighborhood meeting Date: April 28, 2004

2.11 Pre-Application Meeting Date: April 8, 2004

2.12 Notification of Neighborhood Meeting: April 14, 2004

3 Public Comment-

3.1 Oral testimony at the Public Hearing has been received from:

Dennis Jones- 700 N 160th St. # A205

Janet Way- 940 NE 147th St.

Pat Crawford- 2326 N 155th St.

Nadra Burns- 700 N 160th St #A310

David Patten- 615 N 161st Pl.

Deborah Ellis- 700 N 160th St. #A212

Kristie Magee- 700 N 160th St. #A306

Les Nelson- 15340 Stone Ave N.

Gini Paulsen- 16238 12th NE

Ralph Syverson- 621 N 161st Pl.

Tim Crawford- 2326 N 155th St.

Gloria Bryce- 708 N 161st Pl.

Corie Ruderbush- 16103 Evanston Ave N

Jan Moberly- 720 N 161st Pl.

4 SEPA Determination-

4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. A Notice of Application that stated the lead agency's intent to issue a DNS for this project was issued on January 20, 2005 and a 14-day comment period followed ending February 4, 2005. City staff determined that the proposal will not have a probable significant adverse impact on the environment and that an environmental impact statement is not required under RCW 43.21C.030(2)(c). This decision

was made after visits to the project site and review of the environmental checklist, and other information on file with the City (there was no public comment received). A notice of determination of nonsiginificance was issued on February 10, 2005. That notice was corrected to properly reflect the appeal period and was re-issued on February 16, 2005.

5. Consistency-

5.1 Site Rezone:

The application has been evaluated and found to be inconsistent with the five criteria listed in Shoreline Municipal Code Section 20.30.320 (B).

II. CONCLUSIONS

Rezone requests are subject to the decision criteria listed in Section 20.30.320(B) of the SMC.

SITE REZONE CRITERIA:

1. **The rezone is consistent with the Comprehensive Plan.**
A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. The City of Shoreline Planning Commission has made a recommendation of denial of this request to the City Council. If the City Council denies this request for Comprehensive Plan land use designation amendment, the re-zoning of this parcel from R-6 to R-24 would not be consistent with this decision. If the City Council approves the request for Comprehensive Plan land use designation amendment, then a rezone of this parcel from R-6 to R-24 may be considered.

2. **The rezone will not adversely affect the public health, safety or general welfare.**
The future development of this site shall show compliance with Title 20 of the Shoreline Municipal Code. Applicable sections of this code include, but are not limited to: Dimensional and Density Standards (20.50.010-20.50.050), Tree Conservation (20.50.290-20.50.370), Parking Access and Circulation (20.50.380-20.50.440), Wastewater, Water Supply and Fire Protection (20.60.030-20.60.050), Surface and Stormwater Management (20.60.060-20.60.130). Compliance with these sections of code has proven sufficient to protect public health, safety, and general welfare. Neither approval nor denial of this request would cause a significant impact on public safety.

3. **The rezone is warranted in order to achieve consistency with the Comprehensive Plan.**
A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a

separate action. The Planning Commission has made a finding recommending denial of this request to the City Council. If the City Council denies the request for Comprehensive Plan land use designation amendment, the re-zoning of this parcel from R-6 to R-24 would not be warranted to achieve consistency with the Comprehensive Plan, and would in fact be in conflict with it.

4. **The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.**
   R24 zoning would be inconsistent with the R6 zoning to the west.

5. **The rezone has merit and value for the community.**
   Approval of this request would allow for an increase in building coverage and impervious surface that may affect future day-lighting of a nearby tributary to Boeing Creek.

CONCLUSIONS:
A request for re-designation of this parcel from Low Density Residential (LDR) to High Density Residential (HDR) has been submitted and is being processed as a separate action. Previous findings by the Planning Commission (as identified above) on the Comprehensive Plan land use designation change request indicate that this change would cause too great of an impact on the neighboring community and would allow for an increase in building coverage and impervious surface that may affect future day-lighting of a nearby tributary to Boeing Creek. Furthermore, if the City Council denies the request for Comprehensive Plan land use designation amendment to HDR, the re-zoning of this parcel from R-6 to R-24 would not be warranted to achieve consistency with the Comprehensive Plan, and would in fact be in conflict with it.

III. RECOMMENDATION

Based on the findings listed above, the Planning Commission recommends denial of application #201371; a request to change the zoning from R-6 to R-24 for parcel number 3299200076 (generally located on the NW corner of Fremont Pl. N and N 160th St.).

City of Shoreline Planning Commission

Chairperson Date: 5/26/2005