

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: South Echo Lake Property Discussion
DEPARTMENT: Parks, Recreation and Cultural Services/CMO
PRESENTED BY: Dick Deal, Parks, Recreation and Cultural Services Director
John Norris, Management Analyst

PROBLEM/ISSUE STATEMENT:

Echo Lake Buffer Associates, LLC, the property owner of the Echo Lake buffer property, has submitted a proposal to the City Council whereby they would donate the buffer property to the City of Shoreline. The proposal also states that the City, not the property owner or Inland Group, the developer of the Echo Lake mixed-use development, would be responsible for the work called out for in the Contract Rezone Agreement for the Echo Lake buffer area. Previously, staff has recommended that the proposal not be accepted, as all, or nearly all, of the public access and wetland buffer benefits are available in perpetuity through the rezone requirements at no additional public expense. The City Council requested that this issue be further examined by the Parks, Recreation, and Cultural Services Board.

FINANCIAL IMPACT:

If the Echo Lake Buffer Associates, LLC proposal is accepted, the financial impact would be \$353,250 in one-time capital funding (as estimated by Raedeke and Associates) and \$24,128 in on-going capital and operational funding. However, this capital cost estimate is greatly dependent on many factors, such as materials used, overall site design, and boardwalk construction design. Staff has outlined an additional alternative in this report where the City would assume ownership of the property including future maintenance, liability, and future upgrades such as a dock, beach, parking, and restroom installation upon completion of the rezone requirements by the developer.

RECOMMENDATION:

Staff recommends that if the City Council wishes to accept this property for a park site, that it do so under the terms outlined in the Additional Alternative section of this report.

Approved By:  City Manager _____ City Attorney _____

INTRODUCTION:

On April 17, 2007, Echo Lake Buffer Associates, LLC, the property owner of the Echo Lake buffer property submitted a proposal to the City Council regarding the Echo Lake buffer area (Attachment A). The proposal stated that the property owner would be willing to donate the buffer property to the City of Shoreline if the City would not require Inland Group, Echo Lake Associates, LLC, or members of Echo Lake Buffer Associates, LLC to do any of the work called out for in the Contract Rezone Agreement for the Echo Lake buffer, shifting this required work to the City. The proposal also stated that the buffer area would be named Rotary Park.

The City Manager subsequently directed that a cost-benefit analysis be conducted so that the City Council had more information about the benefits and costs of the proposal in order to make an informed decision on whether to accept the proposal. In the analysis, the one-time capital costs and on-going operational and capital costs associated with taking over ownership of the buffer were weighed against the benefits of having the property in public ownership. A cost estimate was completed by Raedeke and Associates that identified the one-time capital costs at \$353,250, and the ongoing operational and capital costs at roughly \$24,128 per year. After analyzing the benefits of having the property in public ownership and the costs associated with having to construct the enhancements mandated in the Contract Rezone Agreement, staff initially recommended that the proposal should be rejected.

This analysis, along with additional background information and identified allowable uses of the buffer property, were presented to the City Council for review at their September 24, 2007 Council meeting. The outcome of the Council discussion regarding this item was that the Council felt that just two alternatives, either rejecting or accepting the proposal, was generally too limiting. Most Councilmembers were interested in having staff explore whether additional alternatives existed that would allow the buffer property to be transferred to public ownership. A few potential alternatives mentioned by Councilmembers at their September 24th meeting included having the current property owner provide the initial capital enhancements and the City take on ownership and ongoing maintenance of the property, or having other organizations provide funding, support, or other resources to help the City take ownership of the property. Based on this desire for additional options to consider, Council unanimously moved to refer this item back to the City Manager's Office for further review and consultation with the Parks Board and other entities.

BACKGROUND:

The Echo Lake buffer property is a 66,822 square foot property that is directly south of Echo Lake and encompasses approximately 245 feet of the lake's shoreline. The property serves as the mandated wetland buffer between Echo Lake, a Type II wetland, and the development south of Echo Lake. This development will feature approximately 469 multifamily housing units in three buildings in the interior and on the east on the site, and two commercial buildings with apartments above the commercial space at the corner of Aurora Avenue and N. 192nd Street. The property in the northwest corner of the site is being developed with a new YMCA building and onsite parking.

On June 30, 2005, the City of Shoreline and the Echo Lake Associates, LLC entered into a Concomitant Rezone Agreement and Covenant running with the land (Contract Rezone Agreement) for the entire Echo Lake property (including the buffer property)

with conditions affecting how the site was to be developed. Staff has been working with the developers of the property since April 2006 to ensure that the Contract Rezone Agreement conditions are met. In total, 19 conditions exist in the Contract Rezone Agreement. However, condition numbers 3, 8, 9, 10, 11, 12, 13, and 19 specifically relate to the buffer portion of the site and affect how the property will be constructed as a buffer that allows for public access. These conditions are as follows:

3. Developer shall provide a 115-foot buffer around the wetland.
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.
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.
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 lake. Within this 70-foot area, the developers intend to apply for a permit to construct a publicly accessible beach and dock.
11. The restored areas of the shoreline will consist of:
 - a. A 10-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 10-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 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 soil-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.

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.
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.

Based on these Contract Rezone Agreement conditions and the approved buffer enhancement plan, it is understood that the buffer property will radiate from the lake's edge and will contain a 10-foot area containing native plantings that will enhance the shoreline's ecology, a 55-foot area containing native plantings appropriate for wetland uplands, a 10-foot boardwalk connecting the Interurban Trail and Aurora Avenue adjacent to this area, and a 40-foot unaltered area beyond the boardwalk that is subject to the Critical Areas section of the City's Development Code for Type II wetland buffer areas. Certain activities will not be allowed in this unaltered "upland" area, such as building, spraying, the use of pesticides/chemicals, and other invasive activities. However, according to City of Shoreline Planning and Development Services interpretation, mowing in this area could be permitted, as well as outdoor recreational activities, as long as they did not include structures or impervious surfaces.

It is also understood that the buffer property owner shall ensure that all plantings in the buffer area are established and self-sustaining for two years by implementing a monitoring and maintenance plan. The improvements for public access, by contrast, are to be maintained in perpetuity, recognizing that access would be lost if the boardwalk were to fall into disrepair.

Generally, all areas of the buffer property are restricted to passive uses which are consistent with the purpose and function of a wetland buffer and do not detract from its integrity. The most likely degradation of the buffer area will be from the public venturing off the boardwalk and damaging plantings and littering. However, the boardwalk and buffer perimeter will be signed with information relating to the sensitive nature of the buffer.

The Contract Rezone Agreement conditions also mandate a 10-foot wide boardwalk access to the lake edge, and state that the "developers intend to apply for a permit to construct a publicly accessible beach and dock." According to City of Shoreline Planning and Development staff, because the conditions are silent as to any improvements in the beach area, such as fire rings, picnic tables, or shelters, staff would construe the rezone conditions and location of the site adjacent to and surrounded by the critical areas to mean that such structures or improvements are prohibited. Uses of the beach, such as sunbathing, fishing, or hand launch of small watercraft, would appear to be within the range of relatively passive activities that would not conflict with permit or statutory restrictions.

PARKS BOARD CONSIDERATION AND RECOMMENDATION:

Based on direction provided by the City Council, staff presented this item to the Parks, Recreation and Cultural Services Board at their October 25th and November 15th meetings. In addition to providing Parks Board members with a tour of the site, background information on the property proposal and allowable uses of the site, and a recap of the initial September 24th Council presentation and discussion, questions regarding input the City Manager was seeking were also posed to the Parks Board. They are:

- Would the buffer property make a good park for Shoreline citizens if it were to be owned by the City and operated and maintained by the Parks Department?
- If so, what park elements would be needed beyond the Contract Rezone Agreement enhancements for the property to function as a Shoreline Park?
- If Inland Development Group were to give additional property to the City that is adjacent to, but outside the buffer property, what would be the desired use for this property, given that the allowable uses of this property differ from that of the buffer?

At the Parks Board's October 25th meeting, the Board concluded that they were not comfortable providing input on the proposal until additional information could be provided, and recommended that staff meet with Inland Group and the YMCA to understand their needs for the site and plans for its use. As part of this staff discussion with Inland Group and the YMCA, it was confirmed that both Inland and the YMCA are supportive of the City taking over ownership of the buffer property as a park site if an agreement can be reached with Echo Lake Buffer Associates, LLC on terms to donate the property (Attachment B and C). Inland Group also expressed their willingness to consider conveying their two sections of property (triangle properties) directly outside the buffer area and give or dedicate parking spaces they control for access to the buffer site (Attachment B). The YMCA also expressed their willingness to let the park users utilize their bathrooms on a short-term basis if permanent bathrooms would be constructed somewhere outside the buffer area, potentially on the donated Inland triangle properties.

After this staff discussion with Inland Group and the YMCA was held, the Parks Board discussed the South Echo Lake buffer property again at their November 15th meeting. Following questions for staff and public comment, the Parks Board recommended that the Echo Lake buffer property would make a good park site for Shoreline citizens, especially given the fact that many users of the park will probably be Inland Group development residents (who will be Shoreline residents) and YMCA patrons, many of which will be Shoreline residents. The Parks Board also recommended that City staff should negotiate with Inland Group for the triangle properties, which could be used for bathrooms or other permanent structures, and for a specified number of designated parking spaces to be determined by City staff, as both of these elements would be needed for the property to function as a City park.

Parks Board members also stated that the naming of the park should conform to the Parks Board Naming Policy, and that naming the buffer property Rotary Park without going through the Parks Board naming process would be a concern. Finally, by a show of hands, a majority of the Parks Board recommended that if the City takes over ownership, liability, maintenance, and additional park upgrades, the City should

negotiate with the current property owner, Echo Lake Buffer Associates, LLC, regarding responsibility for the cost of installing the mandated Contract Rezone Agreement buffer enhancements.

In addition to this guidance provided by the Parks Board, some Planning Commissioners also expressed serious concerns to the City Manager regarding the property proposal submitted by the property owner. These concerns relate to the City setting a precedent of relieving developers of the legal requirements to construct and maintain required wetland buffers if the proposal is accepted. The conditions in the Contract Rezone Agreement were carefully reviewed, developed and negotiated by the Commission in the context of the entire development and its impacts.

ADDITIONAL ALTERNATIVE:

The initial staff report submitted to Council for their September 24th Council meeting recommended that the City not accept the property since most, if not all, of the public access benefits to the property would be available under the rezone requirements at no additional cost to the public. These buffer and public access benefits were negotiated and required as part of the rezone approval and are available in perpetuity. Based on the Parks, Recreation and Cultural Services' Board recommendation that the buffer property can function as a park site if certain upgrades are achieved, staff has identified another option for Council consideration regarding the Echo Lake Buffer Associates, LLC proposal.

This option is outlined as follows:

- The City of Shoreline would take over the buffer property as a park site and assume long-term ownership of the property, liability insurance, property maintenance costs in perpetuity, additional property upgrades beyond the mandated Contract Rezone Agreement enhancements such as beach and dock installation (if allowable through permit process), enhancement of the "upland" portion of buffer, such as installation of grass and potential irrigation, bathroom construction outside of buffer property, and long-term capital costs, such as boardwalk replacement costs.
- Echo Lake Buffer Associates, LLC would install all of the improvements and buffer enhancements required under the Contract Rezone Agreement and transfer ownership responsibility to the City.
- The City of Shoreline would negotiate with Inland Group for conveyance of their two sections of property directly outside buffer area (triangle properties) and donation or dedication of parking spaces they control for access to the buffer.

If the City is to develop this area as a park, there are significant additional improvements that will be needed such as restrooms, parking, and signage as well as on going maintenance expenses. The City would need to develop a capital plan for these improvements, prioritize the project in the CIP and seek additional funding. There is currently no funding available for such improvements, nor is their funding available for up to \$353,000 if the City were to undertake the buffer enhancement requirements on behalf of the developer. It is also important to consider that all of the required improvements need to be in place prior to occupancy permits being issued for the development. It would be difficult for the City to find such funding in time to meet the enhancement requirements prior to occupancy. Additionally, there are still benefits to

the developer under this option, since the City would assume the on-going maintenance costs, liability insurance, and replacement obligations.

FINANCIAL IMPACT:

If the original Echo Lake Buffer Associates, LLC proposal is accepted, the financial impact to the City would be \$353,250 in one-time capital funding (as estimated by Raedeke and Associates) and \$24,128 in on-going capital and operational funding. However, this capital cost estimate is greatly dependent on many factors, such as materials used, overall site design, and boardwalk construction design.

If the alternative outlined above is accepted, the cost to the City would be \$24,000 in annual maintenance costs and as yet undetermined costs for installation of restrooms, parking, possible dock and beach, and signage.

RECOMMENDATION:

Staff recommends that if the City Council wishes to accept this property for a park site, that it do so under the terms outlined in the Additional Alternative section of this report.

APPENDIX:

Attachment A

Echo Lake Buffer Associates, LLC property proposal.

April 17, 2007

Mr. Robert Ransom, Mayor
City of Shoreline
17544 Midvale Avenue North
Shoreline, WA 98133

Dear Bob,

I would like to make the following proposal to the Shoreline City Council regarding the 66,822 square foot buffer area at the south end of Echo Lake.

1) Echo Lake Buffer Associates, LLC currently owns the buffer parcel at the south end of Echo Lake. I understand that this parcel contains 245 feet of water frontage along the lake and that this parcel comprises 66,822 square feet. At one time, the City of Shoreline was going to purchase this property along with property for their new City Hall. As most people know, property along Aurora is selling for \$30.00 and more per square foot. Echo Lake Buffer Associates, LLC would be willing to donate this parcel to the City of Shoreline if, in return, they were to receive documentation that would satisfy the IRS that a gift was made in an valued at a mutually agreeable amount.

2) As further inducement for Echo Lake Buffer Associates, LLC to donate the land, the City of Shoreline would not require Inland Construction, Echo Lake Associates, LLC, or members of Echo Lake Buffer Associates, LLC to do any of the work called out for in the Contract Rezone for the Echo lake buffer. This work was agreed to in order to provide commercial zoning for the new City Hall. The current development, consisting primarily of residential units, could have been constructed under the previous zoning.

3) The Buffer area would be named Rotary Park, although there would be no liability to the local Rotary Clubs, Rotary District 5030, or Rotary International because of this naming. The two local Rotary Clubs would hope to be able to work with the Shoreline Park Department to make improvements that would be enjoyed by the entire Shoreline Community. This naming would allow the Clubs to install signage, approved by the City of Shoreline, naming the Park, Rotary Park.

*Inland Construction has provided some timelines for when work is to be completed in the buffer area. Therefore, time is of the essence to come to an agreement on this proposal.

Sincerely,

Harley D. O'Neil, Jr., Managing Member
Echo Lake Buffer Associates, LLC
c/o Royal Property Management Company
1408 N.W. Richmond Beach Rd.
Shoreline, WA 98177

ATTACHMENT B

Email from Darin Davidson, President, Inland Group.

-----Original Message-----

From: Darin Davidson [mailto:Darind@InlandConstruction.com]

Sent: Tuesday, November 13, 2007 6:09 PM

To: Dick Deal

Cc: Chuck Daiger

Subject: RE: South Echo Lake

Dick – as I've expressed previously, we are willing to consider the parking stall designation for park users and we're willing to consider allowing the triangle pieces to be included and used in the park layout. However, the details need to be worked out before we can commit to anything. Obviously, what is placed in those areas and how the structures are constructed will impact our development – could be positive or negative. Both issues, parking and the triangle property, are possibilities from our perspective. I don't know that I can be anymore definitive or specific at this time. I still believe the more significant issue is working out an agreement with the current owner.

Please call or email if you'd like to discuss further.

Darin Davidson

ATTACHMENT C

Letter from Courtney Whitaker, Executive Director, Dale Turner YMCA.



November 14, 2007

Shoreline Parks, Recreation and
Cultural Services Board
c/o Dick Deal
City of Shoreline
17544 Midvale Avenue N.
Shoreline, WA 98133

**Dale Turner
Family YMCA**

1220 NE 175th Street
Shoreline, WA
98155
206-364-1700
Fax 206-363-3142

Dear Parks Board and Staff;

As one of the landowners at the Echo Lake property site, the YMCA is very excited about the dynamic and exciting plans for this multi-acre parcel. It has always been our hope that in addition to a new community YMCA and substantial affordable and market-rate housing opportunities, that our community would benefit from the redevelopment of the south end of Echo Lake. When we began work with the prior owner more than three years ago, the vision to create a small park facility and a boardwalk that showcased the natural beauty of that area was a huge draw for the YMCA in choosing this location.

As with many things in life, the negotiations for the "buffer space" have been tenuous. We are thrilled that the City of Shoreline and the Parks, Recreation and Cultural Services Board is looking at potential partnerships to enhance this area into a small neighborhood or mini park. We appreciate the Parks Department's willingness to investigate the possibilities for this space and their openness to soliciting feedback and input from both the YMCA and the Inland Group.

The YMCA has many programs for youth on sustainable communities and environmental education and we look forward to helping our next generation of community leaders develop ownership for restoring and maintaining the environmental beauty of the south end of Echo Lake. We support the work of the City staff and will do our best to accommodate reasonable requests for YMCA usage and joint programming as needed to make this dream of a park on the south end of Echo Lake a reality. I appreciate your time and consideration of this work as well and look forward to working with the City over the next several months to develop a plan.

Please do not hesitate to contact me if you have any questions or concerns about the YMCA's involvement and support of this venture. I can be reached at cwhitaker@seattleyymca.org or (206) 364-1700.

Warmest regards,

A handwritten signature in black ink, appearing to read 'C. Whitaker', written in a cursive style.

Courtney K. Whitaker