

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Ordinance 534: Interim Regulations for Processing
Quasi-judicial Items
DEPARTMENT: Planning and Development Services
PRESENTED BY: Joseph W. Tovar, FAICP
Director

PROBLEM/ISSUE STATEMENT:

The 2009 Planning Commission Work Program contains a number of items that the City Council has affirmed as high priority tasks for the Commission to hear during the first half of the year. In order to stay on schedule, the Planning Commission has unanimously recommended that certain quasi-judicial matters be temporarily re-routed to the Hearing Examiner, so that for those items the public hearing would be held by the Examiner and she then would make a recommendation for the Council's consideration.

FINANCIAL IMPACT:

None.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 534 to adopt interim regulations that for 2009 would re-route all quasi-judicial hearing responsibilities from the Planning Commission to the Hearing Examiner, with the exception of Master Development Plans, special use permits and rezones within the boundaries of either the Southeast Neighborhoods Subarea Plan or the Town Center Subarea Plan. As before, the City Council would remain the decision-maker on these quasi-judicial items; only the hearing venue would change.

Approved By:

City Manager 

City Attorney 

BACKGROUND

At its January 5, 2009 meeting, the City Council reviewed the Draft 2009 Planning Work Program (Attachment A) and discussed which components should be affirmed, and which adjusted, prior to adoption of the Final Planning Work Program in February. The Council expressed a desire to make the following clarifications or revisions:

- Item 1, **Visioning Process**, was affirmed as a high priority. The Planning Commission has several more steps in the process, culminating in its presenting a proposed new Vision and Framework Goals to the Council in April.
- Item 2, **Design Review**, was moved to the second half of 2009, based on the need to be sure to finish several important tasks (e.g., the Vision, development regulations for RB zone, etc.) during the first half of the year.
- Item 3, **Tree Regulations**, was set for a City Council study meeting in February to approve the scope of the regulations to be included. Depending on the final scope, the amount of time needed to finish the task could take longer than shown.
- Item 4, **Permanent Development Regulations for the RB zone**, was set for a City Council Study meeting to affirm the scope and approach to be used. The deadline for adoption remains mid-May.
- Item 6, **Point Wells**, was affirmed as an item to include as a City of Shoreline Comprehensive Plan Amendment, affirming the City's position that any more intensive development or provision of urban services from the south should be predicated on annexation to the City. Council also asked to be kept apprised of the status of Snohomish County's plan amendment for Point Wells. Because the County's EIS on its plan amendment will not be released until February, the staff will propose that a draft City of Shoreline Plan Amendment be scheduled for public comment and Planning Commission review starting in April and reaching Council sometime this coming summer.

As part of the staff report for the January 5 Council meeting, staff raised for Council a problem that threatens this Work Program, and identified a solution. The staff report specifically said:

... staff is presenting you with a work program that does not include all the items that will arise to take time over the coming year. Recognize that, except for Master Development Plans, the work program assumes no quasi-judicial hearings on this work program. However, if an applicant applies for a rezone early next year, staff is obligated to process it. Given how packed the first six months of Commission agendas will be, I must again ask that the Council to consider re-routing such hearings to the Hearing Examiner, at least until July of 2009.

During its January 15, 2009 meeting, the Planning Commission was briefed on Council's January 5 preliminary decisions about the items detailed above. At that time, the Commission discussed how the Planning Work Program could be accommodated in their Agenda Planner for the coming six months, and became concerned about how the

quasi-judicial workload could interfere with completing the important legislative tasks on the draft Work Program. The Commission unanimously agreed to recommend to the City Council that, with limited exceptions, all quasi-judicial items be sent to the Hearing Examiner for one year. The exceptions recommended were Master Development Plan Permits, rezone applications for properties within the Town Center or Southeast Shoreline Neighborhoods Subarea Planning boundaries, and Special Use Permits. All other quasi-judicial rezones, subdivisions and street vacations would be forwarded to the Hearing Examiner.

The staff agrees with the Planning Commission that the priority for the Commission's agenda time for 2009 should be the nine substantial Items shown on the 2009 Planning Work Program. These items have been identified by the Council as high priorities. Therefore, the staff has prepared an interim regulation ordinance to re-assign most of the Planning Commission's quasi-judicial items to the Hearing Examiner until February of 2010. This would mean that the Examiner would conduct those hearings and forward her recommendation to the Council. As before, the Council would continue to make the final decision.

The Council is required to have a public hearing on the interim regulation within 60 days. The staff proposes that the Council conduct that hearing on February 23, which is the same date that is scheduled for the Council's final action adopting the 2009 Planning Work Program. After the hearing, the Council could decide to affirm, modify, or rescind the interim regulation re-assigning these quasi-judicial items to the Hearing Examiner.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 534 to adopt interim regulations that for a period of one year would re-route all quasi-judicial hearing responsibilities from the Planning Commission to the Hearing Examiner, with the exception of Master Development Plans, special use permits and rezones within the boundaries of either the Southeast Shoreline Neighborhoods Subarea or the Town Center Subarea. As before, the City Council would remain the decision-maker on these quasi-judicial items; only the hearing venue would change.

ATTACHMENT A – Draft 2009 Planning Work Program

Draft 2009 Planning Work Program

Legend	x	Commission role	x	Council Adoption
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2008 → 2009 →

Item 1 Visioning Process

Planning Commission Mgt
PC Subcommittee Mgt
Joint PC/CC Mgt

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
x													
	x												
x		x	x										

Item 2 Design Review

PC meetings
CC meetings

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
x	x	x											
	x	x	x		x								
	x	x		x		x							

Item 3 Development Code Amendments

Amendment Package #301643
CPA Regs in Development Code
Tree Regulations
Develop new "Office zone"

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
	x		x										
	x	x	x										
	x	x	x		x								
		x	x		x								

Item 4 Permanent Development Regs for RB zone

Staff analysis and recommendation
PC Review
Council Adoption

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
	x	x	x										
		x	x										
				x									

Item 5 Check in points for two other Major Plans

Transportation Master Plan Update
Shoreline Master Program (regular updates)

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
		x											
				x				x				x	

Item 6 Point Wells

Shoshone County EIS Update
Potential City Plan Amendment

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
	x												
		x	x		x								

Item 7 Town Center Subarea Plan

Staff and consultants conduct community outreach
Staff prepares Plan & Code Amendments for Central Shoreline
Plan & Code amendments heard by Planning Commission
Council adopts Plan and Code Amendments

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
							x	x	x	x			
									x	x	x	x	x
													x

Item 8 SE Neighborhoods Plan and Zoning update

Staff develops background info/CAC develops Subarea Plan
Open House
Planning Commission reviews Subarea Plan
Council adopts Subarea Plan

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
x	x	x	x	x	x								
				x									
					x	x							
									x				

Item 9 Master Development Plan for Crista Campus

Submit for permit
Staff review
PC Review
CC adoption

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
x	x												
	x	x											
			x	x									
					x	x							

Item 10 Master Plans for Fircrest and Shoreline CC

Add'l Work Program Items:

Other code amendments to codify Administrative Orders and implement Housing and Sustainability Strategies

ORDINANCE NO. 534

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING AN INTERIM LAND USE REGULATION ASSIGNING RECORD HEARINGS FOR CERTAIN QUASI-JUDICIAL PROJECT PERMITS TO THE SHORELINE HEARING EXAMINER FOR 2009

WHEREAS, under the provisions of the Growth Management Act the City has adopted development regulations implementing the City of Shoreline Comprehensive Plan; and

WHEREAS, the Planning Commission has recommended and the Council finds that a reassignment of record hearings and recommendations for certain quasi-judicial project permits to the Shoreline Hearing Examiner rather than the Planning Commission for 2009 is necessary to allow the City to meet its target processing time for project permits while accomplishing a demanding schedule of city-wide planning tasks established for 2009; and

WHEREAS, the same rules of procedure for pre-decision open record hearings apply to the Hearing Examiner and the Planning Commissioner and this procedure is used now for Critical Areas Special Use Permits;

WHEREAS, pursuant to SEPA regulation SMC 20.30.550 adopting Washington Administrative Code Section 197-11-800, procedural land use regulations are categorically exempt from environmental review; now therefore,

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

Section 1. Finding of Fact. The recitals set forth above are hereby adopted as findings of the City Council.

Section 2. Interim Regulation Adopted. During the effective dates of this ordinance the following quasi-judicial Type C land use permits listed under Table 20.30.060 of the Municipal Code shall have an open-record hearing set before the Shoreline Hearing Examiner rather than the Planning Commission:

- A. Preliminary formal subdivision.
- B. Site-specific rezone and zoning map change; provided, however, that rezones within the Southeast Shoreline Neighborhoods Subarea or the Town Center Subarea shall continue to have hearings set before the Planning Commission for review and recommendation.
- C. Street vacations.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and 36.70A.390 the City Clerk shall notice a public hearing before the City Council to take testimony concerning this interim regulation within sixty days of passage of this ordinance.

Section 4. Permanent Regulations. The City Council directs the staff to evaluate the effectiveness of procedures adopted in this interim as a basis for recommending permanent amendments to SMC 20.30.060. If this interim regulation expires without permanent amendments having been adopted, procedures of SMC 20.30.060 in effect prior to adoption of this ordinance shall be restored.

Section 5. Publication; Effective Dates. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and the ordinance shall take effect and be in full force five (5) days after publication. The ordinance shall expire at the end of calendar year 2009 unless extended or repealed according to law.

PASSED BY THE CITY COUNCIL ON FEBRUARY 9, 2009.

Mayor Cindy Ryu

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of publication: , 2009
Effective date: , 2009