

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Ordinance No. 286 Rezoning and Establishing a Comprehensive Plan Land Use Designation for a 1.22 Acre Parcel at Fremont and 182nd
DEPARTMENT: City Attorney's Office
PRESENTED BY: Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT: At a Public Hearing on July 23, 2001 your Council heard testimony regarding the reconciliation of the Comprehensive Plan Land Use Map and the Zoning Map. Council adopted Ordinances No. 276 and 277 with language that continued Council deliberation of both the Comprehensive Plan and Zoning Map designations of the 1.22 acre parcel located at the southeast corner of Fremont and 182nd, which is currently developed with medical/dental offices (Attachment A). Council directed staff to return within 60 days with a recommended resolution to issues raised during the public hearing regarding the appropriate zoning of this property. The purpose of this discussion is to finalize Council action to make the City's zoning map consistent with the City's adopted comprehensive plan as required by state law.

ALTERNATIVES ANALYZED: Staff has narrowed consideration to two options based on Council deliberations during the July 23rd meeting. They are:

1. Change the Comprehensive Plan Land Use Designation to "Mixed Use" and Rezone to Contract Zone CZ-2001-01 (Exhibit A to Attachment B) by adopting version 1 of Ordinance No. 286. (Attachment B) This would allow the current use to continue as a conforming use, but, if that use is abandoned, the underlying zoning would be R-8 consistent with the "Mixed Use" Comprehensive Plan Designation. The property owner would have 30 days to execute the Contract Zone or it would revert without further Council action to Alternative 2.
2. Retain the "Low Density" Comprehensive Plan Land Use Designation and Rezone to "R-6" (residential, 6 units/acre) by adopting version 2 of Ordinance No. 286. This was the original staff recommendation to the Planning Commission. (Attachment C)

FINANCIAL IMPACT: None

RECOMMENDATION

Adopt version 1 of Ordinance No. 286 set forth in Attachment B authorizing execution of Contract Zone CZ-2001-01 and establishing a Comprehensive Plan Land Use Designation of Mixed Use if the Contract Zone is executed within 30 days, or R-6 zoning and a Comprehensive Plan Land Use Designation of Low Density if not so executed.

Approved By:

City Manager

City Attorney

INTRODUCTION

State law requires that cities take action to ensure that their zoning regulations are consistent with the land use designations included in their adopted comprehensive plans. Council held a public hearing on July 23, 2001, to consider taking action on a set of zoning map and comprehensive plan land use designations to achieve this consistency. Significant and conflicting public comment was provided regarding the Planning Commission recommendation on one parcel (Attachment A) at the southeast corner of 182nd St. and Fremont.

In response to the public comment and Council discussion, staff recommended a contract rezone of this parcel. The property owners requested time to review this proposal. Council directed staff to return in 60 days with a final resolution proposal.

BACKGROUND

The medical dental complex located at the southeast corner of Fremont and 182nd (Attachment A) was originally authorized by King County Ordinance No. 8498 adopted May 2, 1988. This Ordinance approved a "RM-900-P" zone for this parcel conditioned upon approval of a specific site plan and the following restriction: "the use of this site should be limited to medical/dental offices or uses allowed in the RS-7200 zone." This type of zoning, known as a "P-Suffix", is not now a part of the City of Shoreline Development Code or carried forward as a land use designation on our Zoning Map. Rather, this parcel is currently designated as "R-48" in the Shoreline Zoning Map and, therefore, inconsistent with the current "Low Density" Comprehensive Plan designation. The current office use is also not consistent with this current zoning.

The use of the parcel for medical/dental offices, as permitted in the RM-900-P, is allowed to continue, be maintained, repaired and replaced provided that the use is not expanded or that the use is not abandoned for more than 12 months under its non-conforming use status (SMC 20.30.280).

Staff prepared and forwarded a copy of contract rezone to owners of this parcel on August 6, 2001 (Contract Zone No. CZ-2001-01, Exhibit A to Attachment B). This contract would provide specific use restrictions on the property consistent with the prior King County ordinance. The adoption ordinance would also amend the Comprehensive Plan designation to "Mixed Use" in order for that designation to be consistent with the contract zone. A R-6 zoning designation would not be consistent with the "Mixed Use" Comprehensive Plan designation, so the contract zone would allow the owners or their successors to continue the current use or change to other uses permitted in a R-8 zone (the lowest density zoning consisted with a "Mixed Use" designation). The property owners have reviewed the concomitant agreement with counsel and the condominium association president is recommending approval to the unit owners.

ALTERNATIVES ANALYSIS

The following discussion highlights each of the options and illustrates how each may or may not meet Council's apparent desire to maintain the existing use without allowing expansion of that use by right.

OPTION 1: Mixed Use Land Use Designation and Contract Zone CZ-2001-01.

This option would implement the Planning Commission recommendation regarding amending the Comprehensive Plan Land Use Designation. It would, however, restrict the permitted use to medical/dental offices only rather than allow the full range of uses permitted under the Office (O) Zone also recommended by the Planning Commission. The Comprehensive Plan Land Use Designation would be changed to "Mixed Use" and the zoning would be the specifically conditioned contract zone. This allows the existing use on the site to continue as a permitted, conforming use subject to the site plan approved by King County (Olason Clinic, King Co. file No 106-88-R). Revisions to the office use or modifications to the site plan for this use will require an amendment to the ordinance and concomitant agreement. Redevelopment with R-8 uses is permitted and will be subject to R-8 development standards.

The property owner must execute the proposed Contract Zone in order for it to be effective. If Council adopts version 1 of Ordinance No. 286 (Attachment B), then the property owner will have a thirty-day period to execute the offered Contract Zone. This time is necessary due to planned absences among representatives of the property ownership. If the City does not receive that acceptance, then the zoning would automatically revert to R-6 with a compatible Comprehensive Plan Land Use Designation of Low Density consistent with Option 2 discussed below.

OPTION 2: Low Density Land Use Designation and R-6 zoning.

This option maintains the existing "Low Density" Comprehensive Plan Designation for the site. The zoning would be changed from R-48 to R-6 consistent with that designation. The existing medical/dental facility would continue to be a legal non-conforming use, and would be regulated by the Non-Conformance Section of Shoreline Municipal Code. The medical/dental office use would be permitted to remain; however, it would not be allowed to expand without a conditional use permit. (See version 2 of Ordinance 286, Attachment C)

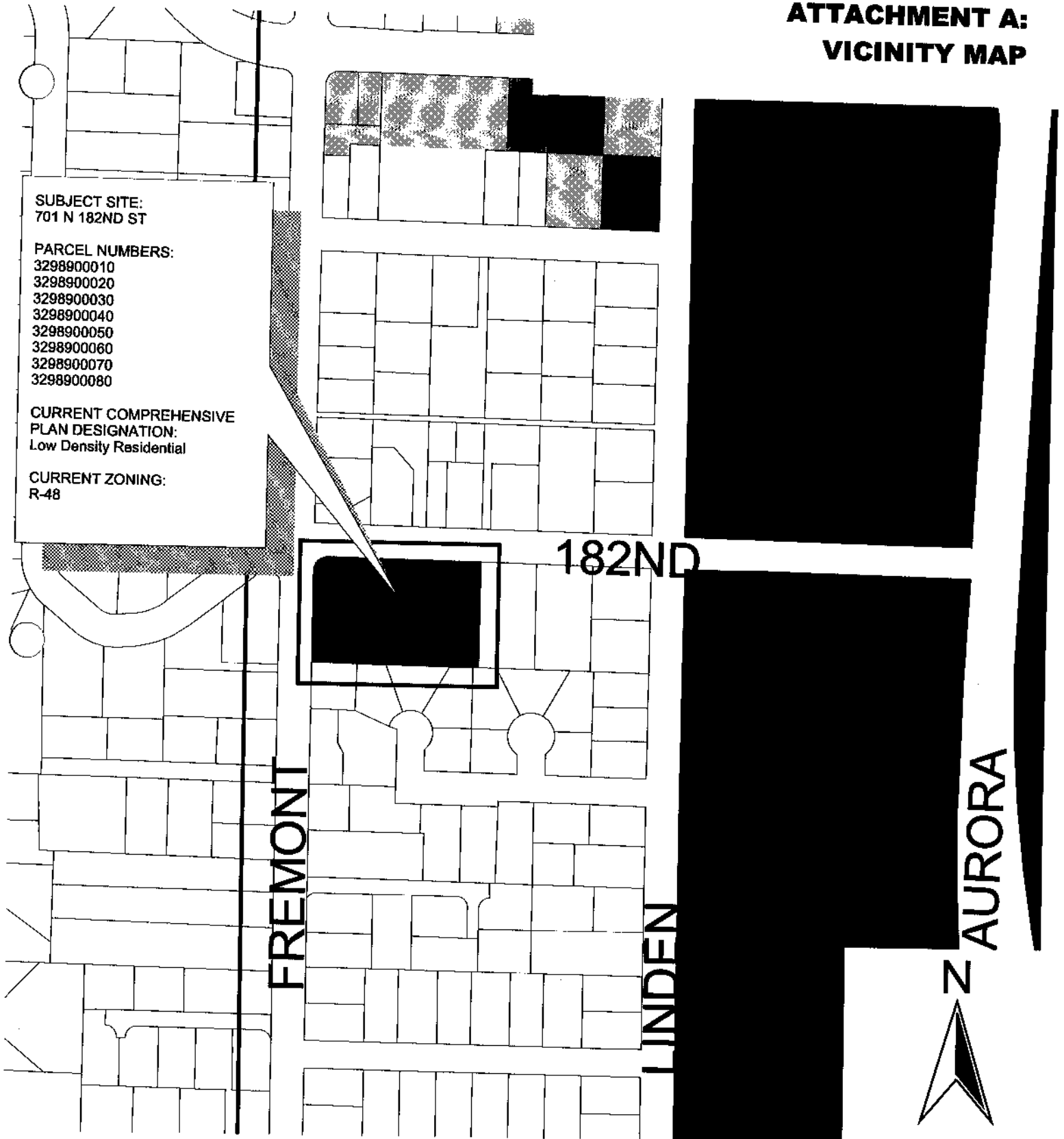
RECOMMENDATION

Adopt version 1 of Ordinance No. 286 set forth in Attachment B authorizing execution of Contract Zone CZ-2001-01 and establishing a Comprehensive Plan Land Use Designation of Mixed Use if the Contract Zone is executed within 30 days or R-6 zoning and a Comprehensive Plan Land Use Designation of Low Density if not so executed.

ATTACHMENTS

Attachment A	Vicinity Map
Attachment B	Option 1 Version of Ord. No. 286.
Attachment C	Option 2 Version of Ord. No. 286

ATTACHMENT A: VICINITY MAP



RECONCILIATION OPTIONS:

OPTION
1
2

PROPOSED COMP PLAN
Mixed Use
Low Density Residential

PROPOSED ZONING
Contract Zone (CZ)
Residential, 6 DU/AC (R-6)

ORDINANCE NO. 286

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE ZONING MAP AND THE COMPREHENSIVE PLAN FIGURE LU-1: LAND USE DESIGNATIONS TO RECONCILE INCONSISTENCIES BETWEEN THE COMPREHENSIVE PLAN AND THE DEVELOPMENT CODE FOR A 1.22 ACRE PARCEL AT THE SOUTHEAST CORNER OF FREMONT AND 182ND.

WHEREAS, the City adopted Title 20, the Development Code, on June 12, 2000 which is generally consistent with the Comprehensive Plan adopted in 1998;

WHEREAS, the City in accordance with the Washington State Growth Management Act (GMA) RCW36.70A.130 which states " Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them" developed an annual Comprehensive Plan review process; and

WHEREAS, the City in accordance with GMA is proposing to reconcile inconsistencies between the Comprehensive Plan adopted in 1998 and the Development Code adopted in 2000 including the reconciliation of all parcels in the City that currently have zoning that is not consistent with the Comprehensive Plan land use designations by amending the Title 20 Zoning Map and the Comprehensive Plan Figure LU-1: Land Use Designations; and

WHEREAS, an extensive public participation process was conducted to develop and review amendments to the Comprehensive Plan and Development Code including:

- Staff presented the Planning Commission with a report on the process for the annual amendment cycle and review of the application for amendments at the July 20, 2000 Planning Commission meeting.
- Comprehensive Plan amendment applications were made available at the October 5, 2000 Planning Commission Open House.
- Staff and the Planning Commission developed the methodology and criteria for addressing the amendments to the Comprehensive Plan land use map and Zoning map at Planning Commission Workshops on November 16, 2000 and December 7, 2000.
- Customized written notices were mailed to all property owners and occupants of parcels that were proposed for either a change in Comprehensive Land Use designations and/or zones;
- Staff conducted three Workshops with the Planning Commission to review the proposed amendments on March 15, 2001, April 5, 2001, and April 19, 2001.
- The Planning Commission held a Public Hearing on the proposed amendments on May 17, 2001.
- The Planning Commission held a Special Meeting on May 24, 2001 to make its recommendation to Council on the proposed amendments.
- The City Council conducted a Workshop on June 18, 2001 to review the Planning Commission recommendation on the proposed amendments.
- The City Council conducted a Public Hearing on this Ordinance on July 9, 2001.
- The City Council held a public meeting on July 23, 2001 to consider adoption of amendments; and

WHEREAS, a SEPA Determination of Nonsignificance was issued on May 3, 2001 in reference to the proposed amendments to the Comprehensive Plan and Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development for comment pursuant WAC 365-195-820 and its comments have been received and are favorable; and

WHEREAS, the Council continued deliberations at its July 23, 2001 meeting on appropriate land use designations for the property subject to this ordinance; and

WHEREAS, the Council finds that the amendments adopted by this ordinance designating the 1.22 acre parcel at the southeast corner of Fremont and 182nd in the City of Shoreline as Comprehensive Plan Land Use designation Mixed Use and zoning designation Contract Zone CZ-2001-01 meet the criteria in Title 20 for adoption of amendments to the Development Code and the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW;

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

Section 1. Amendment; Comprehensive Plan. Figure LU-1: Land Use Designations of the Comprehensive Plan is amended to change the land use designation of the property located at 701 N. 182nd St, Shoreline, WA, Parcel No. 3298900010-80 from Low Density to Mixed Use; Provided, however, this parcel shall be designated Low Density in Figure LU-1: Land Use Designations of the Comprehensive Plan if the Concomitant Zoning Agreement attached hereto as Exhibit A is not executed and recorded within thirty days from the date of final passage of this ordinance.

Section 2. Amendment; Zoning Map. The Official Zoning Map is amended to change the land use designation of the property located at 701 N. 182nd St, Shoreline, WA, Parcel No. 3298900010-80 from R-48 to Contract Zone CZ-2001-01; Provided, this parcel shall be designated as R-6 on the Official Zoning Map if the Concomitant Zoning Agreement attached hereto as Exhibit A is not executed and recorded within thirty days from the date of final passage of this ordinance.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 24, 2001.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: September 27, 2001
Effective Date: October 2, 2001

CONCOMITANT REZONE AGREEMENT AND COVENANT RUNNING WITH THE LAND

Contract Zone No. CZ-2001-01

This Concomitant Rezone Agreement and Covenant (hereinafter "Covenant") dated _____, 2001, by and between the City of Shoreline, Washington, a municipal corporation (hereinafter "City"), and Highland Park Place Condominium Association (hereinafter "Owners").

RECITALS

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

Highland Park Place Condominium, 701 N 182nd St., Shoreline, WA 98133

(Hereafter described as "Property").

B. The City has approved the rezone of the Property currently zoned R-48 to Contract Zone consistent with the Comprehensive Plan, subject to acceptance by the Owner.

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 CZ-2001-01, 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 use the Property for Medical or Dental Offices constructed according the Site Plan adopted in King County Ordinance No. 8498 (Olason Clinic Site Plan, King Co. file No. 106-88-R) or other uses permitted in the R-8 zone by SMC Title 20 as amended.
4. **Binding Effect.** This Covenant shall remain in full force and effect, and be binding upon the Owners and their successors and assigns until amended, modified or terminated by an ordinance adopted by the Shoreline City Council.
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

By: _____

Steven C. Burkett, City Manager

By: _____

APPROVED AS TO FORM

Ian Sievers, City Attorney

STATE OF WASHINGTON)

COUNTY OF KING)

) ss.

I certify that I know or have satisfactory evidence that _____ appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act 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)

COUNTY OF KING)

) ss.

I certify that I know or have satisfactory evidence that Steven C. Burkett 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 _____

ORDINANCE NO. 286

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AMENDING THE ZONING MAP TO RECONCILE INCONSISTENCIES
BETWEEN THE COMPREHENSIVE PLAN AND THE DEVELOPMENT
CODE FOR A 1.22 ACRE PARCEL AT THE SOUTHEAST CORNER OF
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WHEREAS, the City adopted Title 20, the Development Code, on June 12, 2000 which is generally consistent with the Comprehensive Plan adopted in 1998;

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WHEREAS, the City in accordance with GMA is proposing to reconcile inconsistencies between the Comprehensive Plan adopted in 1998 and the Development Code adopted in 2000 including the reconciliation of all parcels in the City that currently have zoning that is not consistent with the Comprehensive Plan land use designations by amending the Title 20 Zoning Map and the Comprehensive Plan Figure LU-1: Land Use Designations; and

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PASSED BY THE CITY COUNCIL ON SEPTEMBER 24, 2001.

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