AMENDED AGENDA

SHORELINE CITY COUNCIL WORKSHOP DINNER MEETING

Monday, September 11, 2006
6:00 p.m.

Shoreline Conference Center
Highlander Room

TOPICS/GUESTS: • YMCA Director and Board members

SHORELINE CITY COUNCIL BUSINESS MEETING

Monday, September 11, 2006
7:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

		Page	Estimated Time
1.	**CALL TO ORDER**		7:30
2.	**FLAG SALUTE/ROLL CALL**		7:30
	(a) Proclamation of "Emergency Preparedness Month"	1	
3.	**REPORT OF THE CITY MANAGER**		7:34
4.	**REPORTS OF BOARDS AND COMMISSIONS**		7:38
5.	**GENERAL PUBLIC COMMENT**		7:40

This is an opportunity for the public to address the Council on topics other than those listed on the agenda, and which are not of a quasi-judicial nature. The public may comment for up to three minutes; the Public Comment under Item 5 will be limited to a maximum period of 30 minutes. The public may also comment for up to three minutes on agenda items following each staff report. The total public comment period on each agenda item is limited to 20 minutes. In all cases, speakers are asked to come to the front of the room to have their comments recorded. Speakers should clearly state their name and city of residence.

6.	**APPROVAL OF THE AGENDA**		7:55
7.	**CONSENT CALENDAR**		7:55
	(a) Minutes: none		
	(b) Approval of expenses and payroll as of August 31, 2006 in the amount of $1,976,638.57	3	

(c) Approval of Joint Use Agreement between the City of Shoreline and the Shoreline School District 5

8. ACTION ITEM: PUBLIC HEARING 8:00

Public hearings are held to receive public comment on important matters before the Council. Speakers wishing to speak should sign in on the form provided. After being recognized by the Mayor, speakers should approach the lectern and provide their name and city of residence. Individuals may speak for three minutes, or five minutes when presenting the official position of a State registered non-profit organization, agency, or City-recognized organization. Public hearings should commence at approximately 8:00 p.m.

(a) Public hearing to receive citizens' comments on Resolution No. 251, opposing Initiative 933, the "Property Fairness Initiative"; and 15

Council action on Resolution No. 251

9. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS AND MOTIONS 9:00

(a) Ordinance No. 440 amending the City's Official Zoning Map Tile Number 434 changing the zoning of a portion of one parcel located at 932 N 199th Street from Residential 12 DU-AC (R-12) to Residential 24 DU-AC (R-24) (Parcel #2227900032) 49

(This is a quasi-judicial item for which the Council does not take public comment).

(b) Shoreline Sister Cities 101

(c) King Conservation District Assessment 113

10. ADJOURNMENT 10:00

The Council meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 546-8919 in advance for more information. For TTY service, call 546-0457. For up-to-date information on future agendas, call 546-2190 or see the web page at www.cityofshoreline.com. Council meetings are shown on Comcast Cable Services Channel 21 Tuesdays at 12 noon and 8 p.m., and Wednesday through Sunday at 6 a.m., 12 noon and 8 p.m.

Council Meeting Date: September 11, 2006 **Agenda Item: 2(a)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Proclamation of "Emergency Preparedness Month"
DEPARTMENT:	CMO/CCK
PRESENTED BY:	Scott Passey, City Clerk

PROBLEM/ISSUE STATEMENT:

Every year disasters disrupt hundred of thousands of lives, and being prepared for such emergencies can reduce fear, anxiety and losses that might otherwise occur. The month of September has been declared "National Preparedness and Weather Radio Awareness Month," and this proclamation declares September 2006 as "Emergency Preparedness Month" in the City of Shoreline.

Citizens are encouraged to implement emergency preparedness measures at home, at work, and in their vehicles as part of the overall emergency preparedness programs of our community and state.

Gail Marsh, Emergency Management Coordinator, will be at the meeting to accept the proclamation.

RECOMMENDATION

No action is required.

Approved By: City Manager City Attorney ___

CITY OF
SHORELINE

PROCLAMATION

WHEREAS, every year disasters disrupt hundred of thousands of lives, and being prepared for such emergencies can reduce fear, anxiety and losses that might otherwise occur; and

WHEREAS, September has been declared "National Preparedness and Weather Radio Awareness Month"; and

WHEREAS, all Shoreline residents should increase their knowledge and awareness of emergency preparedness actions they can take to make themselves and their families self-sufficient for at least three days following a natural or man-made disaster or an act of terrorism; and

WHEREAS, the use of information from National Oceanic and Atmospheric weather radios, which are available for purchase commercially, can reduce the loss of life and property from all hazards by sounding a warning alarm at any time around the clock; and

WHEREAS, the City is a source of information about how citizens can prepare themselves for an emergency; and

WHEREAS, individual preparedness leads to local, state and national preparedness;

NOW, THEREFORE, I, Robert Ransom, Mayor of the City of Shoreline, on behalf of the Shoreline City Council, do hereby proclaim the month of September, 2006 as

EMERGENCY PREPAREDNESS MONTH

in the City of Shoreline and urge all our citizens to implement emergency preparedness measures at home, at work, and in their vehicle as part of the overall emergency preparedness programs of our community and our state.

_____

Robert Ransom
Mayor of Shoreline

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of Expenses and Payroll as of August 31, 2006
DEPARTMENT:	Finance
PRESENTED BY:	Debra S. Tarry, Finance Director

EXECUTIVE / COUNCIL SUMMARY

It is necessary for the Council to formally approve expenses at the City Council meetings. The following claims/expenses have been reviewed pursuant to Chapter 42.24 RCW (Revised Code of Washington) "Payment of claims for expense, material, purchases-advancements."

RECOMMENDATION

Motion: I move to approve Payroll and Claims in the amount of $1,976,638.57 specified in the following detail:

***Payroll and Benefits:**

Payroll Period	Payment Date	EFT Numbers (EF)	Payroll Checks (PR)	Benefit Checks (AP)	Amount Paid
7/30/06-8/12/06	8/18/2006	15412-15602	5447-5517	30179-30192	$450,750.65
					$450,750.65

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
8/18/2006	30193		$14,318.00
8/18/2006	30194	30195	$126,842.84
8/22/2006	30196	30198	$402.00
8/29/2006	30199		$3,440.36
8/31/2006	30200		$375.00
8/31/2006	30201	30204	$53,781.47
8/31/2006	30205	30228	$1,326,728.25
			$1,525,887.92

Approved By: City Manager _____ City Attorney_____

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Council Meeting Date: September 11, 2006 **Agenda Item:** 7(c)

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	City of Shoreline & Shoreline School District Joint Use Agreement
DEPARTMENT:	Parks, Recreation, and Cultural Services
PRESENTED BY:	Dick Deal, PRCS Director

PROBLEM/ISSUE STATEMENT:

In August 2000 the City of Shoreline and Shoreline School District entered into a Joint Use Agreement (JUA) that approved the shared use of several city and school facilities. This agreement allows the City and School district to cooperatively schedule many buildings and athletic fields maximizing the public benefit of these facilities. Both parties agreed that a coordinated and cooperative scheduling of public facilities is the best way to maximize facility use while ensuring that they are maintained as sustainable community assets.

Facilities in the original agreement that allow joint use by the City of Shoreline and the Shoreline School District include Einstein Middle School Playfield and Hillwood Park, Kellogg Middle School Track and Hamlin Park, Shorecrest High School Ballfields and Hamlin Park Ballfields and Trails, Paramount School Park, Meridian Park Tennis Courts, Shoreline Pool and Shoreline Park, and Shoreline Center and Shoreline Park. In September 2001 the Spartan Gym was added to the agreement.

The agreement calls for a review of the agreement by both parties to ensure that scheduling, maintenance issues, equipment replacement schedules, and potential co-funded capital projects are discussed. In addition, the review gives an opportunity to make any necessary adjustments or changes in the agreement.

After a detailed review by school district and City staff it was determined that the only portions of the JUA that needed modification were the Shoreline Center and Shoreline Park, and Spartan Gym sections.

Spartan Recreation Center (Attachment A)

The gymnasium, adjacent offices, locker rooms, restrooms, and classrooms were originally part of Shoreline High School. In September 2001 the JUA between the City of Shoreline and Shoreline School District was amended to add this facility into the joint use agreement that allowed the City to manage and operate the Spartan Gymnasium complex. In 2001 a remodel funded by the school district was completed and the City began operating the facility as a community center.

In May 2005 Phase II improvements funded by the City of Shoreline were completed adding additional office space, two new classrooms, and additional restrooms. Public

use of the facility has increased each year of operation by the City, with a large increase since the addition of Phase II improvements.

Recommended changes to the Spartan Gym portion of the JUA include the following:
Section 1.
Change the name of the facility from "*Spartan Gym*" to "*Spartan Recreation Center*". This change more accurately reflects the variety of uses that take place in the facility. The gymnasium in the building will retain the Spartan Gym name.

Section 4.
Add "*The City agrees to maintain the grounds surrounding the Spartan Recreation Center*". An increased level of grounds maintenance is desired by the City to enhance the appearance of the recreation center. In addition, most trash and debris around the center is generated by recreation center users and it should be the City's responsibility to clean this area.

Add "*The City will provide its own custodial service for the Spartan Recreation Center. This will take place no later than January 1, 2007 or within 90 days of prior budget approval by the Shoreline City Council*". Currently the School District is providing a full-time district employee to perform 20 hours of facility maintenance each week. The district needs this staff person for their custodial work and the City will need to fund it's own custodial maintenance needs at the Spartan Recreation Center.

"*The School District will have priority scheduling during regular school hours for special events and from 3:00 – 5:00 p.m., Monday through Friday, for after-school activities.*" We have been allowing the use of the facility by the District during these hours and this just formalizes this use.

Recommended changes to the Shoreline Center and Shoreline Park (Attachment B) portion of the JUA are:

Section 2. Joint Use
"*The City must comply with the rules and regulations for the Shoreline Conference Center*".

"*The district will provide the Rainier and the Highlander rooms for City meetings. The board room will not be available for city meetings.*" The Rainier and Highlander rooms will be provided free of charge for City Council and Planning Commission meetings. Any other additional city groups may use the conference center at the regular assigned rate. In addition, the city will provide three points of contact to work directly with the school district conference center to schedule all City events. All callers will be referred to the assigned contact persons to be determined by the City Manager's office.

The changes noted above are the substantive changes in the Joint Use Agreement. A review of the attachments will show all changes. There are some minor modifications to the agreement eliminating elements that are no longer necessary. These are shown as strike-through changes in the attachments.

FINANCIAL IMPACT:
The clarification of which groups will get free use of the conference center will result in room charges for some City groups that have been using the conference center facilities free of charge for the past several years. There will now be a charge for those uses.

The largest financial impact to the City is the loss of district custodial support at the Spartan Recreation Center. Due to the current financial situation at the District this custodial support is needed at other District facilities. All program staff at the recreation center are City employees and it is reasonable for the City to be responsible for the maintenance needs of the facility. The estimated budget to perform the necessary maintenance of the facility is $39,800. The cost of maintenance will be included in the 2007 budget as a baseline budget adjustment.

RECOMMENDATION

Staff recommends that the City Council approve these modifications to the Joint Use Agreement between the Shoreline School District and City of Shoreline.

Approved By: City Manager _____ City Attorney _____

ATTACHMENTS

Attachment A – Addendum to Joint Use Agreement Spartan Recreation Center
Attachment B – Addendum to Joint Use Agreement Shoreline Center and Shoreline Park

ADDENDUM TO JOINT USE AGREEMENT

SPARTAN RECREATION CENTER~~GYM~~

The Shoreline School District #412 and the City of Shoreline have entered into a Joint Use Agreement dated 8/29/00 ("Agreement"). This Addendum to that Agreement relates to ~~Spartan Gym~~ **Spartan Recreation Center** facility (hereafter "Facility") as described below, located at the Shoreline Center at 18560 1st Ave. NE, Shoreline WA, and the terms and conditions of this Addendum supplement the application of the Agreement to the ~~Spartan Gym~~ **Spartan Recreation Center** facility defined herein.

A. Context and History

The School District passed a bond issue that included funding for renovation of the gymnasium facility at the Shoreline Center. The design and construction focused on a vision of creating broader community access to the Facility for public recreation. Prior to 2000, the School District Athletic Department operated this Facility at the Shoreline Center complex. The dance room and gym were available for public use. King County Parks; City of Shoreline Parks, Recreation and Cultural Services Department; and youth and community organizations used the Facility for community recreation purposes.

In 2000, the City and the School District entered into a joint use agreement for City and School District facilities with a vision and intent to maximize public use of public facilities while maintaining them as sustainable assets.

The School District completed a $2 million renovation of the Facility and renamed it ~~Spartan Gym~~ **Spartan Recreation Center** in May 2001. The ~~Spartan Gym~~ **Spartan Recreation Center** facility has a total of 34,727 square feet. Newly renovated spaces total 23,500 square feet or 68% of the building including a double gym, dance room, weight room, fitness room, office and lobby spaces, and ADA accessible restroom. In addition, men's and women's locker rooms were partially renovated and are available for public use.

The School District has exclusive use of 7,200 square feet or 20% of the building for School District purposes. This includes one locker room in the northwest corner of the building for visiting teams using the Stadium adjacent to the ~~Spartan Gym~~ **Spartan Recreation Center**. It also includes a former locker room located on the north side of the gym that has been modified, but largely unimproved, that is being used for storage.

The remaining 4,000 square feet or 12% of the building is unimproved. This includes an old locker room on the south side of the gym that is vacant. The City's 2001-2005 Capital Improvement Program has $650,000 included for investment in the ~~Spartan Gym~~ **Spartan Recreation Center**. The funds are targeted to renovate this 4,000 square foot area for multipurpose rooms and support areas that would compliment the gym and fitness rooms. Once this is completed, the City will oversee 80% of the building footprint for community recreation purposes. The City's program use of the facility is expected to expand with the added facilities.

In 2001, the school district and city staff members collaborated to develop a joint operations plan for the newly renovated ~~Spartan Gym~~ **Spartan Recreation Center** facility. This addendum is based upon the August 2001 Joint Operations Plan.

THE PARTIES AGREE AS FOLLOWS:

1. **Facility Subject to Joint Use Agreement**

The ~~Spartan Gym~~ **Spartan Recreation Center** facility is added to those properties subject to the Agreement as of the date this Addendum is fully executed. The ~~Spartan Gym~~ **Spartan Recreation Center** facility is a separate building located on the Shoreline Center campus.

2. **Removal of Facility**

The District does not currently need the Facility for a school building. However, pursuant to RCW 28A.355.040, the District may declare the ~~Spartan Gym~~ **Spartan Recreation Center** facility again needed for school purposes and thus remove this Facility from this Joint Use Agreement. In such case, the District shall give the City twelve (12) months advance notice prior to said removal. The removal of this Facility from this Agreement shall be a partial termination of the Agreement entitling the City to reimbursement of the depreciated value of improvements by the City.

3. **Option To Buy**

If the District elects to sell any or all of the Facility during the period of this Agreement, it shall first notify the City. For ninety (90) days thereafter, the City shall have the option to buy the Facility at issue. The terms of any purchase by City pursuant to such election shall be as follows:

(a) the purchase price shall be fair market value set pursuant to RCW 28A.335.120 for the portion of property being sold, less the remaining depreciated value of the City's improvements being sold;
(b) cash at closing;
(c) closing within ninety (90) days of City's exercise of the option; and
(d) insurable fee simple title.

4. **Maintenance and Operations**

The School District shall provide and pay for routine maintenance and repair of the interior and exterior of the Facility. **The city agrees to maintain the grounds surrounding the Spartan Recreation Center.** The City shall pay for repair of vandalism to the building interior associated with program use administered by the City. Major building maintenance repair and restoration shall be shared on a pro-rata basis according to use by School District and City operated programs.

~~The School District will provide custodial services.~~ **The City will provided its own custodial service for the Spartan Recreation Center. This will take place no later than January 1, 2007 or within 90 days of prior budget approval by the Shoreline City Council.**

The City shall pay for all utilities ~~beginning June 2001. The City shall reimburse the School District for utility payments made for June 2001 to the end of 2001 in three annual payments beginning January 2002.~~

The City will administer public recreation programs for the community. The City will provide supervision, scheduling, development and implementation of recreation programs, and collection and receipt of fees. The City shall operate this Facility, including facility additions developed under Section 6, in the same manner and to the same degree as other park and recreation facilities operated by the City. All fees collected by the City shall be retained by the City to offset its program expenses and utilities. The City and School District will review costs and use on an annual basis and make recommendations for modifications in cost sharing on a bi-annual basis.

The School District and City shall meet quarterly to develop the program schedule. The School District will ~~generally~~ have priority scheduling during regular school hours **for special events and from 3:00-5:00 p.m., Monday through Friday, for after-school activities.** The City of Shoreline will have priority scheduling at all other times.

The School District will receive credit for their initial capital investment in weight room equipment as the proportionate costs are calculated on an annual basis until the City's replacement costs add up to the amount the School District funded initially.

5. Supervision

It is provided further that each party shall prepare/set-up, supervise, and clean up facilities used by that party after regular hours of operation.

It is also provided that District administrative and security staff will have authority to supervise student behavior in ~~Spartan Gym~~ **Spartan Recreation Center** during the school year.

6. Facility Development

~~The City commits to pay the District up to $650,000 for additional improvements to the building for multi-purpose rooms and related support facilities. Reimbursement of any project costs in excess of this amount is subject to further approval of the Shoreline City Council.~~

The City and District shall collaborate in the planning and design process for the additional improvements to the Facility. The plans, specifications and standards for the placement of all equipment, facilities and improvements at the ~~Spartan Gym~~ **Spartan Recreation Center** facility (whether permanent or temporary), and the type, design and construction thereof, shall be approved in writing by the School District prior to any installation thereof, which approval shall not be unreasonably withheld. If the School District objects to any public planning process in writing within thirty (30) days of notification and the stated objections are not timely resolved, the City will cancel the public planning process.

~~The City will pay Shoreline School District for construction of improvements as progress payments are due and the direct costs of the District's Project Manager, not to exceed $650,000.~~

In WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on their behalf:

Dated: _____ **CITY OF SHORELINE**

_____

Robert Olander, City Manager

Approved as to form

_____

Ian Sievers, City Attorney

Dated: _____ **SHORELINE SCHOOL DISTRICT**

_____

Superintendent

Approved as to form

_____

Lester "Buzz" Porter, School District Attorney

ADDENDUM TO JOINT USE AGREEMENT

SHORELINE CENTER
AND
SHORELINE PARK

The Shoreline School District #412 and the City of Shoreline have entered into a Joint Use Agreement dated _____("Agreement"). This Addendum to that Agreement relates to the **Shoreline Center and Shoreline Park,** hereafter referred to as Facility, located at 1st Avenue NE and North 161st Street.

A. Context and History

The District owns a parcel of property in the City of Shoreline known as the Shoreline Center, which was formerly the site of Shoreline High School. City also owns certain real property adjacent to the Shoreline High School site, commonly known as Shoreline Park located at 1st Avenue NE at North 190th Street.

In 1988, King County constructed soccer fields on a portion of District property and on its own adjacent property. Other improvements were also made on the County-owned property. The County contributed to the project improvements on both parcels in excess of $1,125,000.

B. Intent

This Addendum is intended to formalize this cooperative use of the parties under the Joint Use Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Option To Buy

If the District or the City elects to sell any or all of the property covered by this Addendum during the period of this Agreement, they shall first notify the other party. For ninety (90) days thereafter, the other party shall have the option to buy the portion of property so at issue. The terms of any purchase by the other party pursuant to such election shall be as follows

(a) The purchase price shall be fair market value set pursuant to RCW 28A.335.120 for the portion of property being sold, less the remaining depreciated value of any improvements constructed by the purchasing party that are situated on the property being sold;
(b) Cash at closing;
(c) Closing within ninety (90) days of party's exercise of the option;
(d) Insurable fee simple title.

2. Joint Use

The City understands that the Shoreline Center is a conference center owned and operated by the District. As such, it is a revenue center which saves taxpayers of the District tens of thousands of dollars each year. In addition, the City understands that because of unforeseen circumstances, the District may receive a rental request from a third party for certain facilities on short notice, specifically Building F (south classroom wing) and the Shoreline Room. If this occurs, the District will notify the City of the request and will work with the City to relocate their activity, but might be unable to do so. The City will have the option of paying the District's standard fee for the facility rather than relocating or rescheduling its use. **The City must comply with the rules and regulations for the Shoreline Conference Center.**

The District will provide meeting rooms for the following standing meetings of the City: a) City Council meetings, b) Planning Commission meetings, and c) All-City staff meetings. ~~The preference of the City is for the Rainier and Highlander rooms for the council meetings and the Board Room for the other two.~~ **The district will provide the Rainier and the Highlander rooms for city meetings. The board room will not be available for city meetings.** If these rooms are unavailable due to circumstances beyond the control of the District, the District will endeavor to provide other meeting room(s) in the Shoreline Center as the projected size of meeting(s) will dictate. ~~The District will work cooperatively with the City to provide other meeting rooms as the need arises.~~ **Any other additional city groups may use the conference center at the regular assigned fee rate. In addition, the city will provide three points of contact to work directly with the school district conference center to schedule all city events. All callers will be referred to the assigned contact persons to be determined by the city manager's office.**

3. Maintenance

Soccer Fields and Tennis Courts--The City shall maintain and prepare soccer fields and tennis courts for all scheduled use.

4. Supervision

It is provided further that each party shall prepare/set-up, supervise, and clean up respective Facility prior to, during, and following scheduled usage of such facilities by that party. It is also provided that District administrative and security staff will have authority to supervise student behavior on soccer fields and tennis courts during the school year.

5. User Fees

Neither party shall charge the other party for the use, routine maintenance, scheduling and/or operation of any parcels located within the boundary of the land covered under this Agreement. The District may, however, charge the City for direct services provided by the Shoreline Center including, but not limited to, costs associated with the provision of meals, food and beverage services, and special equipment.

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on their behalf:

CITY OF SHORELINE

BY_____

Robert Olander, City Manager

Approved as to form

BY_____

Ian Sievers, City Attorney

SHORELINE SCHOOL DISTRICT #412

BY _____

Superintendent

Approved as to form:

BY _____

Lester "Buzz" Porter, Shoreline School Board Attorney

Council Meeting Date: Sept. 11, 2006 **Agenda Item: 8(a)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public hearing and Council Action regarding a position on I-933
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joe Tovar, Director Rachael Markle, Assistant Director

PROBLEM / ISSUE STATEMENT:

Initiative 933 (I-933) will be presented to the voters of the State of Washington at the general election on November 7, 2006. The Shoreline City Council will hold a public hearing and decide whether to take a position on this issue.

FINANCIAL IMPACT:

There will be no direct financial impact of the Council's action adopting a resolution regarding I-933.

ACTION REQUESTED

Staff requests that the Council accept public testimony and adopt a resolution to urge voters to oppose I-933.

Approved By: City Manager ___ City Attorney ___

BACKGROUND

Initiative 933 (Exhibit A) will appear on the November General Election ballot. It was filed by the Washington State Farm Bureau who named it "The Property Fairness Initiative." The initiative is supported by the Building Industry Association of Washington. Other organizations supporting I-933, along with alleged examples of regulatory abuses, and arguments in favor of the initiative, appear on the website of the proponents at www.propertyfairness.com See Exhibit B. Organizations opposing I-933 include the Nature Conservancy and the Greater Seattle Chamber of Commerce. Other organizations opposed to I-933, and arguments against the initiative, appear on the website of the Communities Protection Coalition at www.noon933.org. See Exhibit C.

Among other things, I-933 would require an agency that "decides" to "enforce or apply any ordinance, regulation or rule to private property" that would result in "damaging the use or value of private property" to "first pay compensation". The initiative would apply to all cities, counties, and state agencies.

The initiative's requirements are retroactive to at least January 1, 1996. However, there is disagreement as to whether other language in I-933 means it also applies to "ordinances, regulations, or rules" that were adopted prior to January 1, 1996. The City of Shoreline incorporated in 1995. As of January 1, 1996, the City was still operating under the prior King County Development regulations. Shoreline did not significantly amend those code provisions until well after January 1, 1996.

Thus, with the exception of the Council's action in 1995 adopting the King County code as Shoreline's first development code, virtually every other City Council action adopting or amending the City's development regulations, building codes, subdivision procedures, critical areas and tree ordinances, would be subject to the provisions of I-933. Because I-933 also names "rules" as claimable actions, also at risk are the standards denoted in the Engineering Development Guide which provides specification for improvements required of new development to maintain levels of service in public facilities.

The initiative would create a new definition in state law of "damaging the use or value" of private property. The definition is extremely broad. For example I-933 effectively defines "damage" as any reduction in "use or value," regardless of the degree or amount of reduced value. The result is that local jurisdictions, including Shoreline, could be deprived of the ability to adopt and enforce reasonable land use regulations, including zoning to ensure the appropriate location of uses, and compatibility among uses located in proximity to each other; sensitive areas regulations necessary to prevent environmental harm; and general development regulations necessary to promote the public health, safety and welfare.

The initiative does list certain exceptions, but states that they are to be "construed narrowly" while all other provisions of the initiative are to be "liberally construed" to "effectuate its intent." Code standards that likely do not fit within the "narrow exceptions" include many that have been the focus of code enforcement actions in recent years.

For example, since 2004, the City has processed 1,418 code enforcement violations, primarily in residential areas. 350 of these were for "work without a permit" which city staff initiated when staff saw development activity underway and upon investigation found that the necessary permits (e.g., grading, building, or electrical permits) had not been applied for. The other 1,068 code violations were initiated by citizen complaints. These latter cases dealt with a variety of subjects: 536 dealt with inappropriate land uses in a zone (e.g., an illegal business in a home); 324 dealt with violations such as encroachments in setbacks or outdoor storage of refuse; 168 dealt with illegal parking of vehicles and junk vehicles; 22 dealt with illegal tree cutting; and 18 dealt with other violations of environmental codes.

A summary of the many other topical areas that could be subject to I-933 claims for payment or waiver appear below in Table 1. The summary shows the applicable Shoreline code section references, the adoption date by the City, and a summary of the changes effectuated by the City's actions.

Table 1
Significant changes in city regulations adopted after Jan. 1, 1996

Topic	SCC Reference	Adoption Date	Change
Signs	20.50	June, 2000	Decrease permitted sign area and height
Minimum lot size in R4/R6 zones	amended 18.12.030A	February, 2000	Minimum lot size changed from 2500 sq. ft. to 7200 sq. ft. Minimum lot width changed from 30 ft to 50 ft
Hazardous Tree Cutting Regulations	20.50.310	July, 2006	Combined with Critical Areas Ordinance, more stringent rules to prevent needless tree cutting
Critical Areas Ordinance	20.80	February, 2006	More stringent regulation than 1996 County Development Code
Adult Entertainment	5.10 & 5.15	October 1997 – July 2003	Restrict activities and creation of new businesses
Gambling		December, 2000	Restrict gambling activities, expansion, and new locations
Storm and Surface Water	Engineering Development Guide		Stricter rules than the 1996 King County regulations.

There are significant additional impacts that are unclear due to the initiative's ambiguous language. For example, the impact of the initiative would be vastly expanded if its "pay or waive" mandate was applied to all land use restriction and not those enacted after 1995. The initiative is ambiguous since it says damage may result from those land use restriction including, but not limited to those enacted after this date. Even the ballot title does not provide a definitive answer. It states in part: "Compensation would be required when regulations are enforced that damage private

property use or value, including regulations prohibiting uses that were allowed as of January 1, 1996."

Another example is the prohibition on the City's enforcement or application of any "ordinance, rule or regulation." that would damage property without paying. "Regulation" is not defined and might be restricted by the definition in chapter 64.40.RCW which the initiative amends. This definition refers to city regulations adopted pursuant to the authority of state law. If so, the city could waive local enactments mandated by state laws such as the Growth Management Act (RCW 36.70A), the Shoreline Management Act (RCW 90.58), the State Environmental Policy Act (RCW 43.21C), the subdivision statute (RCW 58.17), the State Building Code (RCW 19.27) or any other law.

However, the initiative doesn't explicitly grant authority to cities to waive the enforcement or application of state-mandated regulations. Under a lay interpretation and liberal construction required by the initiative, "regulation" (under common definitions) means any law of rule including statutes.

If the city has no statutory authority to waive regulations adopted pursuant to the above cited state laws, the only remaining response to a "pay or waive" claim under I-933 would be for the City to pay claimants. The cost of I-933 to taxpayers was the subject of a recent state-wide analysis done by the Association of Washington Cities at the request of the Washington State Office of Financial Management. See Exhibit D.

AWC estimated the state-wide cost of I-933 to cities at between $3.5 and $4.5 billion. This figure tracks closely with the experience of the state of Oregon, whose voters passed Measure 37 in 2004. Measure 37 has a similar "pay or waive regulations" mechanism that so far has created about $4 billion in claims against Oregon cities and counties.

Based on the number of households in Shoreline as a percentage of all households in the cities of the state, the staff estimates that the annual cost to the City of Shoreline of processing and paying compensation for the enforcement and application of reasonable development regulations in order to protect the public health, safety and welfare could be as much as $5 to $6 million every year.

$5 to $6 million is a significant portion of Shoreline's annual budget.. Since the initiative is retroactive at least to 1996, there could be up to ten times this amount filed for in the first year. Funding even a fraction of this liability would severely damage the ability of the City to provide needed public safety, infrastructure and other public services.

ACTION REQUESTED

Notice has been given and the Clerk's office has invited both the proponents and opponents of I-933 to offer testimony at the September 11 public hearing. The staff recommends that, after accepting and considering the public testimony, the City Council adopt a resolution (Exhibit E) that urges voters to reject I-933.

Exhibits

A. Initiative 933
B. Initiative 933 proponents information posted at www.propertyfairness.org
C. Initiative 933 opponents information posted at www.Noon933.org
D. Association of Washington Cities fiscal impact analysis and advisory 933 posted at www.awcnet.org
E. Resolution opposing I-933

INITIATIVE 933

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 933 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to providing fairness in government regulation of property; adding new sections to chapter 64.40 RCW; adding a new section to chapter 36.70A RCW; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

INTENT TO REQUIRE FAIRNESS WHEN GOVERNMENT REGULATES PRIVATE PROPERTY

NEW SECTION. **Sec. 1.** This act is intended to protect the use and value of private property while providing for a healthy environment and ensuring that government agencies do not damage the use or value of private property, except if necessary to prevent threats to human health and safety. The people also intend to recognize and promote the unique interests, knowledge, and abilities private property owners have to protect the environment and land. To this end, government agencies must consider whether voluntary cooperation of property owners will meet the legitimate interests of the government instead of inflexible regulation of property.

The people find that over the last decade governmental restrictions on the use of property have increased substantially, creating hardships

EXHIBIT A

for many, and destroying reasonable expectations of being able to make reasonable beneficial use of property. Article I, section 16 of the state Constitution requires that government not take or damage property without first paying just compensation to the property owner. The people find that government entities should provide compensation for damage to property as provided in this act, but should also first evaluate whether the government's decision that causes damage is necessary and in the public interest.

The people find that eminent domain is an extraordinary power in the hands of government and potentially subject to misuse. When government threatens to take or takes private property under eminent domain, it should not take property which is unnecessary for public use or is primarily for private use, nor should it take property for a longer period of time than is necessary.

Responsible fiscal management and fundamental principles of good government require that government decision makers evaluate carefully the effect of their administrative, regulatory, and legislative actions on constitutionally protected rights in property. Agencies should review their actions carefully to prevent unnecessary taking or damaging of private property. The purpose of this act is to assist governmental agencies in undertaking such reviews and in proposing, planning, and implementing actions with due regard for the constitutional protections of property and to reduce the risk of inadvertent burdens on the public in creating liability for the government or undue burdens on private parties.

FAIRNESS WHEN GOVERNMENT REGULATES PRIVATE PROPERTY BY REQUIRING CONSIDERATION OF IMPACTS BEFORE TAKING ACTION

NEW SECTION. **Sec. 2.** A new section is added to chapter 64.40 RCW to read as follows:

(1) To avoid damaging the use or value of private property, prior to enacting or adopting any ordinance, regulation, or rule which may damage the use or value of private property, an agency must consider and document:

(a) The private property that will be affected by the action;

(b) The existence and extent of any legitimate governmental purpose for the action;

(c) The existence and extent of any nexus or link between any legitimate government interest and the action;

(d) The extent to which the regulation's restrictions are proportional to any impact of a particular property on any legitimate government interest, in light of the impact of other properties on the same governmental interests;

(e) The extent to which the action deprives property owners of economically viable uses of the property;

(f) The extent to which the action derogates or takes away a fundamental attribute of property ownership, including, but not limited to, the right to exclude others, to possess, to beneficial use, to enjoyment, or to dispose of property;

(g) The extent to which the action enhances or creates a publicly owned right in property;

(h) Estimated compensation that may need to be paid under this act; and

(i) Alternative means which are less restrictive on private property and which may accomplish the legitimate governmental purpose for the regulation, including, but not limited to, voluntary conservation or cooperative programs with willing property owners, or other nonregulatory actions.

(2) For purposes of this act, the following definitions apply:

(a) "Private property" includes all real and personal property interests protected by the fifth amendment to the United States Constitution or Article I, section 16 of the state Constitution owned by a nongovernmental entity, including, but not limited to, any interest in land, buildings, crops, livestock, and mineral and water rights.

(b) "Damaging the use or value" means to prohibit or restrict the use of private property to obtain benefit to the public the cost of which in all fairness and justice should be borne by the public as a whole, and includes, but is not limited to:

(i) Prohibiting or restricting any use or size, scope, or intensity of any use legally existing or permitted as of January 1, 1996;

(ii) Prohibiting the continued operation, maintenance, replacement, or repair of existing tidegates, bulkheads, revetments, or other infrastructure reasonably necessary for the protection of the use or value of private property;

(iii) Prohibiting or restricting operations and maintenance of structures necessary for the operation of irrigation facilities, including, but not limited to, diversions, operation structures, canals, drainage ditches, flumes, or delivery systems;

(iv) Prohibiting actions by a private property owner reasonably necessary to prevent or mitigate harm from fire, flooding, erosion, or other natural disasters or conditions that would impair the use or value of private property;

(v) Requiring a portion of property to be left in its natural state or without beneficial use to its owner, unless necessary to prevent immediate harm to human health and safety; or

(vi) Prohibiting maintenance or removal of trees or vegetation.

(c) "Damaging the use or value" does not include restrictions that apply equally to all property subject to the agency's jurisdiction, including:

(i) Restricting the use of property when necessary to prevent an immediate threat to human health and safety;

(ii) Requiring compliance with structural standards for buildings in building or fire codes to prevent harm from earthquakes, flooding, fire, or other natural disasters;

(iii) Limiting the location or operation of sex offender housing or adult entertainment;

(iv) Requiring adherence to chemical use restrictions that have been adopted by the United States environmental protection agency;

(v) Requiring compliance with worker health and safety laws or regulations;

(vi) Requiring compliance with wage and hour laws;

(vii) Requiring compliance with dairy nutrient management restrictions or regulations in chapter 90.64 RCW; or

(viii) Requiring compliance with local ordinances establishing setbacks from property lines, provided the setbacks were established prior to January 1, 1996.

This subsection (2)(c) shall be construed narrowly to effectuate the purposes of this act.

(d) "Compensation" means remuneration equal to the amount the fair market value of the affected property has been decreased by the application or enforcement of the ordinance, regulation, or rule. To the extent any action requires any portion of property to be left in its natural state or without beneficial use by its owner,

"compensation" means the fair market value of that portion of property required to be left in its natural state or without beneficial use. "Compensation" also includes any costs and attorneys' fees reasonably incurred by the property owner in seeking to enforce this act.

FAIRNESS WHEN GOVERNMENT DIRECTLY REGULATES PRIVATE PROPERTY

NEW SECTION. **Sec. 3.** A new section is added to chapter 64.40 RCW to read as follows:

An agency that decides to enforce or apply any ordinance, regulation, or rule to private property that would result in damaging the use or value of private property shall first pay the property owner compensation as defined in section 2 of this act. This section shall not be construed to limit agencies' ability to waive, or issue variances from, other legal requirements. An agency that chooses not to take action which will damage the use or value of private property is not liable for paying remuneration under this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 64.40 RCW to read as follows:

An agency may not charge any fee for considering whether to waive or grant a variance from an ordinance, regulation, or rule in order to avoid responsibility for paying compensation as provided in section 3 of this act.

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW to read as follows:

Development regulations adopted under this chapter shall not prohibit uses legally existing on any parcel prior to their adoption. Nothing in this chapter shall be construed to authorize an interference with the duties in chapter 64.40 RCW.

MISCELLANEOUS

NEW SECTION. **Sec. 6.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purpose of this act to protect private property owners.

NEW SECTION. **Sec. 7.** Nothing in this act shall diminish any other remedy provided under the United States Constitution or state Constitution, or federal or state law, and this act is not intended to modify or replace any such remedy.

NEW SECTION. **Sec. 8.** Subheadings used in this act are not any part of the law.

NEW SECTION. **Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 10.** This act shall be known as the property fairness act.

--- **END** ---

Vote Yes on Initiative 933 this Fall!

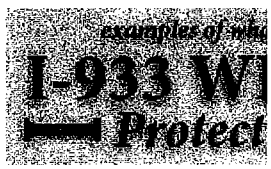
We have submitted more than 317,000 signatures to the Secretary of State. I-933 will be on the November ballot.

Now the campaign to reach every voter with the message that politicians should think before they damage private property begins. **Contribute today** to help fund this crucial effort to protect your rights!

The Property Fairness Initiative will protect our rights, our pocketbooks, our jobs, and our economy. The concept is simple: We want politicians to think before they act. Initiative 933 will require politicians and agencies to:

- Tell us why they want new regulations.
- Identify the properties they want to regulate.
- Identify how much damage they will cause to the use and value of private property.
- Determine if voluntary, cooperative programs can accomplish the goal.
- If the politicians and agencies then decide to damage the use and value of private property, they must follow the state Constitution and pay for the damage.

Click **here** for examples of excessive land-use regulations or proposed regulations that damage the use and value of private property.



propertyfairness

Property Fairness Coalition
PO Box 2446 Olympia, WA 98507
Office: 360-528-2909
Media inquiries: 360-528-2909
propertyfairness@wsfb.com

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EXHIBIT B

I-933 will protect private property rights from excessive government regulations that damage the use and value of private property.

State and local governments have already begun dismantling these rights. Below are several examples.

King County has adopted a "65-10" plan requiring some property owners to leave 65 percent of their property in native vegetation, and to have "impervious surfaces" on no more than 10 percent. Impervious surfaces, in King County, include dirt and gravel roads.

Thurston County is considering a set of regulations that would impose 300-foot buffers along waterways; require some property owners to fence themselves out of part of their property for wildlife habitat, restrict gardening and agricultural activities, limit the use of some generators, and damage use and value of property by not permitting additional structures on some properties.

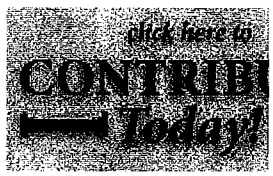
Clark County has proposed to set aside habitat for banana slugs.

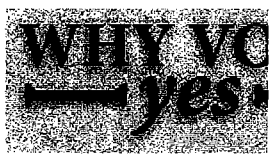
Jefferson County has proposed 450-foot "default" wetland buffers, threatening the flexibility farmers need to stay in business.

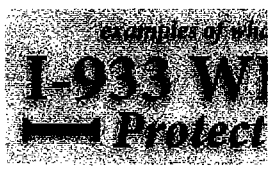
The City of Bellevue considered banning tree topping, which would have limited the view from many properties.

The City of Sammamish at one point created a "lottery" to draw the names of residents to determine if they were allowed to apply for permits for uses already allowed on their properties.

The state Supreme Court has upheld a growth hearings board order for Ferry County to adopt habitat restrictions for certain animals







propertyfairness

that have not been seen in Ferry County.

A growth management hearings board has ordered Stevens County to adopt property use restrictions to protect a bird that is not on the state or federal protected species lists and is found in great abundance across several states.

Property Fairness Coalition
PO Box 2446 Olympia, WA 98507
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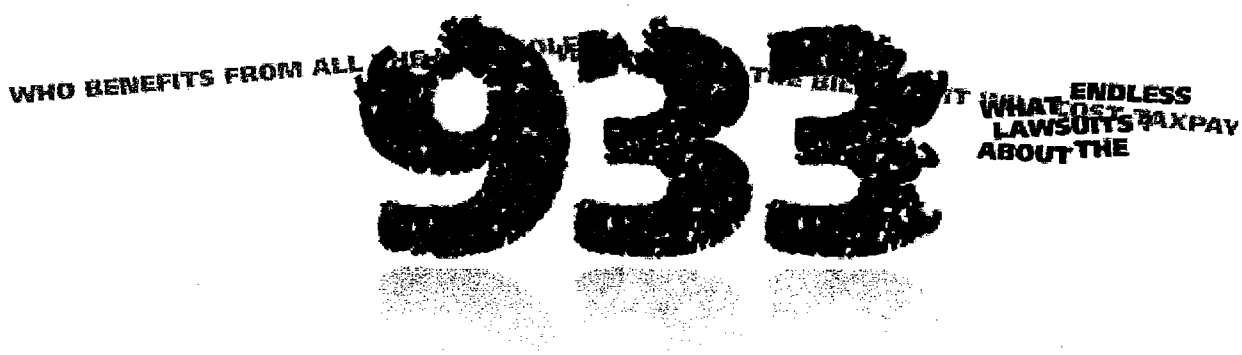
NO ON 933

TOO MANY QUESTIONS.
TOO MANY LOOPHOLES.
TOO COSTLY FOR TAXPAYERS.

HOME WHY VOTE NO ABOUT US MEDIA CENTER GET INVOLVED CONTRIBUTE

WHY CAN GOVERNMENT WAIVE THE RULES?



Initiative 933 begs more questions than it answers. How much will it cost? Who gets exempted from the law and who decides? Why should taxpayers have to pay for attorney's fees? We know there are more, here is a list of 933 questions that I-933 has left unanswered.

One thing Washington voters can be sure of is that I-933 creates a "pay or waive" system that will force taxpayers to pay millions of dollars to stop irresponsible development or exempt certain land owners and corporations from the law. I-933 is a poorly written law that will place additional unfair burdens on Washington taxpayers for years to come.

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PLEDGE VOTE

933 QUESTIO
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UPCOMING EVENTS

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NO ON 933

TOO MANY QUESTIONS.
TOO MANY LOOPHOLES.
TOO COSTLY FOR TAXPAYERS.

WHY VOTE NO

Analysis of Initiative Text
Other Analysis
It's bad for farmers
It's bad for neighborhoods
It's bad for working families
It's bad for business
It's bad for the environment
News Articles
FAQs
Debunking the Backers
933 Questions Left Unanswered

WHY VOTE NO

I-933 creates a "pay or waive" system that makes local communities decide whether to waive laws for special interests or force taxpayers to pay them to follow the rules.

Before local communities are even forced to waive laws for special interests, it will cost hundreds of millions of taxpayer dollars just to administer. I-933 also mandates that taxpayers must pay for all claimants' attorneys' fees.

Implementation of I-933 will take money away from important community services like education, public safety and other services we all depend upon or taxes will have to be raised to pay for this poorly written law.

I-933 is written so irresponsibly that it leaves voters guessing and doesn't say where the money will come from, who gets to be exempted from the law, or who decides.

The extreme costs to taxpayers are not only monetary, but I-933 forces communities to waive laws that will create loopholes for irresponsible development leading to more traffic congestion, taking away a community's right to decide how it wants to look in the future, and result in an overall diminished quality of life.

I-933 is bad for Washington. Vote NO on 933.

Paid for by Citizens for Community Protection • P.O. Box 9100 • Seattle, WA 98109-9779.

AWC I-933 FISCAL IMPACT ESTIMATES

Background

A state law passed in 2004 requires the Office of Financial Management (OFM) to provide citizens with a fiscal analysis of the potential state and local government revenue and expenditure implications of Initiatives on the ballot. The analysis is to be summarized in the Voter's Pamphlet and posted on the Secretary of State's website.

On July 20, 2006, OFM asked AWC for city and town fiscal impact estimates for the additional requirements and compensation that could be required to implement Initiative 933. We were asked to provide estimates by August 1st and nearly met that tight timeline (pegged to Voter Pamphlet printing deadlines).

The estimate provided to OFM by AWC is a statewide estimate. AWC does not have estimates for individual cities. We encourage cities to conduct there own impact estimates to help prepare their city and community in the event it passes and to help educate citizens about potential impacts. Cities should determine whether or not to use a similar methodology as is provided below.

Statewide Estimates of Impacts on Cities

AWC provided to OFM a **Compensation** (pdf, 7 kb) estimate of between $3.5 and $4.5 billion, and an **Administrative Costs** (pdf, 7 kb) estimate of between $60 and $76 million per year. These are statewide estimates - AWC does not have estimates for individual cities.

We encourage individual cities and towns to consider the potential fiscal impacts of I-933 on their own budgets. If the Initiative passes, it becomes law on December 7, 2006 - 30 days after the election. We can provide more information to interested cities and towns about the methodology we used to calculate our estimates, as well as sample methodologies used by some of those

EXHIBIT D

who responded to our survey. Contact Dave Williams at davew@awcnet.org or Tim Gugerty at timg@awcnet.org.

How Did We Estimate Impacts?

We sent surveys to a number of cities that reflected diversity of geographic region and population size.

The survey asked cities to estimate the impact of I-933 in four possible categories:

- **Compensation** resulting from actions/conditions impacting land in cities between 1996 and 2006;
- **Costs to analyze claims** under current, previous or proposed regulations;
- **Potential appraisal costs** (for determining compensation values); and
- **Potential additional litigation costs** for claims and appeals.

The information request AWC sent to cities did not include direction on how to calculate impacts. At the direction of and in consultation with OFM, AWC did ask cities to consider the following assumptions: assume current state requirements and regulations would remain in place, reflect costs for past city regulatory actions, and assume cities may only "waive" regulations if expressly authorized to do so in statute.

City responses reflected a variety of methods for arriving at an impact estimate, including consideration of developed and undeveloped parcels, building permit activity levels, valuation of land under critical areas or shorelines regulations, and calculations of assessed values.

AWC projected a statewide estimate by determining population growth rates in cities over the last 10 years, grouping them into five impact categories by growth rates and applying a different average assessed value impact factor to each grouping for an estimated compensation liability for regulations in place between 1996 and the present.

What Did We Find?

Our Compensation estimate for all cities and towns is between $3.5 and $4.5 billion. This estimate is expressed in a range because responding cities identified a wide array of potential impacts. Our Compensation estimate may be conservative in that it only totals approximately 1% of overall statewide city assessed value and does not take into account such factors as:

- The estimate is provided for current liability since 1996 only.

- This estimate is based on current city regulations and state mandates and current levels of population growth.
- The estimate does not reflect potential claims resulting from impacts to value of land for property adjacent to parcels on which reduced enforcement of regulations may be deemed to damage the rights or values of such parcels.
- The estimate is not adjusted for inflation.

Our Administrative Costs estimate for all cities and towns is between $60 and $76 million per year. This takes into account the estimated costs to analyze current and future land use plans and regulations to evaluate impacts from I-933 compensation claims, the costs to conduct appraisals based on OFM's estimate of appraisal costs, and the costs for associated litigation.

Unlike the Compensation estimate, which is a cumulative total for years 1996-2006, the estimated Administrative Costs are projected annually into the future beginning after December 2006.

Now What?

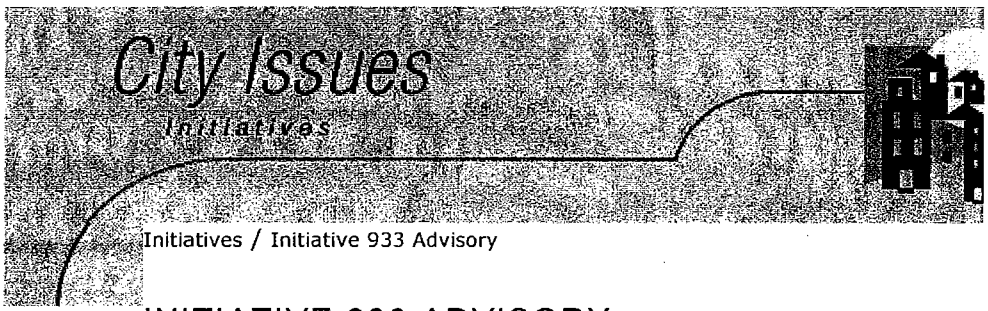
OFM will determine how they will include and characterize our estimates in what they submit to the Secretary of State. They will also submit an estimate for state and county fiscal impacts.

We have heard that an independent fiscal analysis is being developed, but have not had contact with those conducting it. Clearly, that analysis won't be included in anything provided in the Voter's Pamphlet but is likely to be available during public consideration and debate about I-933 prior to the November 7th election.

Again, we encourage cities and towns to conduct their own impact estimates to be better prepared if Initiative 933 passes, and to help educate citizens about potential impacts.

While local governments can not use public funds to advance or oppose ballot propositions, cities are able to share factual information with their citizens. More information about what cities may or may not do regarding ballot initiatives can be found on AWC's PDC & AGO resources page.

8/18/06



Initiatives Home Page
Initiative 933 Advisory
AWC I-933 Fiscal Impact Estimates
PDC & AGO Resources

INITIATIVE 933 ADVISORY

On February 8 of this year, the Washington State Farm Bureau filed final language with the Secretary of State's office for their so-called "Property Fairness Initiative." (http://www.secstate.wa.gov/elections/initiatives/text/i93

The Initiative Title As It Would Appear On the Ballot:

"This measure would require compensation when government regulation damages the use or value of private property, would forbid regulations that prohibit existing legal uses of private property, and would provide exceptions or payments."

Proponents (http://www.propertyfairness.com/) are currently collecting signatures and are speaking and providing information to various groups and media outlets about what is contained within I-933 and what is driving them to promote it.

Opposition (http://www.protectcommunities.org/) has also formed and member interests are speaking and providing information to various groups and media outlets about why I-933 would be detrimental for communities, businesses and citizens.

This advisory was prepared to:

- Assist city and town officials in better understanding the possible interpretations of I-933; and
- Alert you to the need to begin considering how your city or town would comply if it qualifies for the ballot and became law.

What Does Initiative 933 Mean?

There is much disagreement about what it means, although the basic idea is that government should not restrict the use of private property without paying for the decline in value of property resulting from governmental restrictions, no matter how small that decline in value might be. Proponents and opponents have already begun to portray its scope and impacts differently. Because of what

many consider to be vague and ambiguous language, it is likely that, should the initiative become law, its scope will be defined by the courts. What seems to be clear, however, is that the initiative, if passed, will have a fundamental impact on how the state and cities, towns and counties regulate land use.

The following is intended to present possible interpretations of the initiative, with the understanding that additional interpretations are likely to emerge over the coming months.

Overview of Initiative 933

- **Section 1 (Purpose and Findings)** is a statement of intent. It should have no operative effect, but it may be used to assist in interpreting the remaining provisions in the initiative.
- **Section 2 (Consideration of Impact and Definitions)**
    - **Subsection (1)** of this section establishes a process requiring agencies, "prior to enacting or adopting any ordinance, regulation or rule which may damage the use or value of private property," to consider and document many issues, including the governmental purpose of the proposed action, the connection between the purpose and the action, the potential impacts of the proposed action on the uses of private property, less restrictive alternatives, and the estimated compensation that may need to be paid.
    - **Subsection (2)** defines key terms: "private property," which is defined broadly as all real and personal property; "damaging the use or value"; and "compensation."
- **Section 3 (Compensation or Waiver):** This section would require that any governmental agency seeking to enforce or apply a regulation of private property that would result in "damaging the use or value" of such property must pay compensation for that damage in advance. In the alternative, the state or local governmental agency may, where it already has authority to do so, simply refrain from taking such action and thereby avoid liability.
- **Section 4 (No Fee for Seeking Waiver):** State or local governmental agencies are not permitted to charge any fee for considering whether to waive or grant a variance from a regulation to avoid liability for compensation.
- **Section 5 (GMA Amendments):** Development regulations adopted under provisions of the Growth Management Act (GMA) can't prohibit uses legally existing prior to their

adoption.

- **The remaining provisions (Sections 6 through 10)** are miscellaneous provisions concerning interpretation and effect.

Answers or potential answers to some of the questions being raised about I-933's impacts on cities and towns. ***Such answers are based upon discussions with a variety of technical and legal experts and a review of a number of I-933 analyses available to AWC staff by early May 2006.***

Section 2: Consideration of Impact and Definitions

Q1: How does I-933 affect critical areas regulations that *all* cities and towns were required by the GMA to adopt and implement? (*For how it impacts zoning and other regulations, please see Q 3-4.)*

A: I-933 appears to affect adoption of critical areas regulations in two ways. First, by defining "damaging the use or value" to specifically include "[p]rohibiting or restricting any use, or size, scope, or intensity of any use legally existing or permitted as of January 1, 1996" - cities and counties will not be able to apply or enforce critical area provisions adopted or amended since 1/1/96 that impose greater restrictions on the use of property without *first* compensating property owners for *any* decline in property value.

Second, it defines "damaging the use or value" to include "[r]equiring *a portion of property* to be left in its natural state or without beneficial use to its owner, unless necessary to prevent immediate harm to human health and safety." (Emphasis added.) Many critical areas regulations prohibit development in certain environmentally sensitive areas, such as steep slopes or wetlands or in buffer areas around streams. Consequently, local governments will be required to compensate property owners before applying or enforcing such regulations, *regardless of when they were adopted*, or they would have to waive such regulations (if they have the authority to do so). While these types of regulations, required by the GMA, are based on long-term public health and safety concerns such as preventing landslides or protecting the critical ecological functions of wetlands and streams, it is unlikely that they would be considered "necessary to prevent *immediate* harm to human health and safety."

Q2: All cities and towns are required by the GMA to review and update, if necessary, their required GMA plans and regulations every 7 years. Does revisiting them trigger new obligations under I-933?

A: At least for the GMA review process, that is not likely. Section 2 (1) requires an agency to consider and document a series of listed factors "prior to enacting or adopting" an ordinance or regulation that may damage the use or value of private property. That section does not require a city or town to engage in that process prior to "reviewing" or "considering" whether to amend a plan or regulation. A city or town should be free, under this language, to review whether comprehensive plan or development regulation amendments are needed, without engaging in I-933's study requirements.

Also, since a comprehensive plan, unlike the development regulations that implement it, does not itself regulate the use of property, actions to review and amend a plan would not trigger I-933 requirements.

However, if a city or town decides to proceed with amending its development regulations in response to its GMA-mandated review, then it would need to follow the "consider and document" requirements in section 2(1).

Q3: What impacts will I-933 have on basic land use regulations in cities, either adopted prior to or since 1/1/96?

A: Those regulations that prohibit or restrict "any use or size, scope, or intensity of any use legally existing or permitted as of January 1, 1996" may be applied and enforced *only* with compensation to affected property owners for any reduction in property value. So, I-933 will affect not only how cities might regulate land use in the future, it will also directly affect how and to what extent they will enforce land use laws they have already adopted.

Other specified types of land use restrictions that may require compensation are not subject to the January 1, 1996 limitation, such as requiring any portion of property to be left in its natural state and prohibiting the maintenance or removal of trees or vegetation.

The scope of other land use restrictions subject to the pay or waive requirement is less clear. For example, a local government cannot, without compensation, prohibit "actions by a private property owner reasonably necessary to prevent or mitigate harm from fire, flooding, erosion, or other natural disasters or conditions that would impair the use or value of private property." See Section 2 (b)(iv). How will it be determined what actions are "reasonably necessary" to prevent or mitigate those disasters or conditions?

Q4: Is there agreement on what land use actions by local governments are exempt from the compensation or waive requirements?

A: No, there is much room for interpretation as to what is exempt under Section 2(2)(c), and the exemptions raise additional questions as to the initiative's scope. This exemption section states that "damaging the use or value" of property does not include "restrictions that apply equally to all property subject to the agency's jurisdiction." However, that section then includes specific examples of restrictions that are exempt, even though cities might *not* apply them equally to all property within a jurisdiction. For example, the exemptions include those that limit "the location or operation of sex offender housing or adult entertainment." Cities that regulate adult entertainment generally limit them to certain zones, so it would appear that those restrictions don't "apply equally" to all property within those cities.

So, this raises the issue of what is meant by "apply equally." Building height restrictions aren't normally the same in residentially and commercially zoned areas and may vary within each. Do they have to be the same everywhere in a city to avoid compensation for greater restrictions enacted after 1/1/96? It would appear so.

The initiative exempts regulations that restrict the use of property "when necessary to prevent an immediate threat to human health and safety," yet it does not define what is meant by "immediate." Does this mean that cities cannot regulate common nuisances such as junk vehicles, which may not present such an "immediate" threat to public health and safety, without compensation?

The exemptions also include matters that do not affect the use of private property, such as "worker health and safety laws" and "wage and hour laws," and regulations adopted by the federal government, such as "chemical use restrictions that have been adopted by the United States environmental protection agency." Such exemptions suggest a very broad scope to the initiative.

In short, the exemptions identified in Section 2(2)(c) raise many questions as to what regulation I-933 applies to.

Q5: What local ordinances, regulations or rules may damage the use or value of private property?

A: It appears that the list of regulations, beyond those specifically identified, that "may" damage the use or value of private property would be very broad. Because the specific list of laws identified in

section 2(2)(b) as "damaging the use or value" is not exclusive, property owners clearly may claim that regulations in addition to those specifically listed require compensation (or waiver) if such regulations fit this narrative definition. Since the definition of "damaging the use or value" includes subjective language such as "the cost of which in all fairness and justice should be borne by the public as a whole," it is difficult to identify specific examples of regulations that may meet this definition.

Q6: Eight new cities have incorporated in Washington since 1/1/96 – Edgewood, Lakewood, Maple Valley, Covington, Kenmore, Sammamish, Liberty Lake, and Spokane Valley. Does I-933 impact planning and zoning in new cities any differently from other cities?

A: Cities that incorporated after January 1, 1996 will be impacted differently than other cities by section 2(2)(b)(i), because that provision exempts regulations that prohibit or restrict "any use, or size, scope, or intensity of any use legally existing or permitted as of January 1, 1996." *All* of these eight cities' land use regulations were enacted after that date, so, to the extent that those cities' regulations are more restrictive than their counties' regulations that were in effect on that date, they cannot be enforced or applied without compensation

Q7: In addition to cities, towns and counties, what other "agencies" would be required to consider and document various factors before "enacting or adopting any ordinance, regulation or rule which may damage the use or value of private property" within cities and towns? For instance, is the state legislature included? Individual state agencies?

A: Most certainly, individual state agencies that adopt regulations or rules impacting private property would be required to adhere to these requirements.

As with many of the questions raised by I-933, arguments could be made on both sides of the issue on whether it applies to certain actions of the Legislature. The answer likely depends on whether a court determines (1) that the legislature is an "agency," and (2) that the legislature adopts "ordinances, regulations, or rules."

Q8: How does I-933 affect a city or town's obligations to adopt and enforce Shorelines Management Act (SMA) plans and regulations as mandated by state law?

A: A local government cannot, without compensation, enforce an SMA regulation that falls within the "damage" definition of section 2(2)(b)(ii). This definition specifically includes matters within the

purview of SMA regulations – "[p]rohibiting the continued operation, maintenance, replacement, or repair of existing tidegates, bulkheads, revetments, or other infrastructure reasonably necessary for the protection of the use or value of private property." This appears to apply regardless of how long ago prohibitions were enacted. Other matters within SMA jurisdiction, beyond those specifically identified, may also require compensation to enforce.

However, absent court interpretation or legislative clarification, it isn't clear whether a local government would have the option to waive enforcement of state-mandated and approved regulations like those adopted under the SMA.

Q9: Would I-933 affect the authority of local governments to impose temporary moratoria ("time outs") on land use actions?

A: I-933 is unclear on this point. Section 5 prohibits a local government from adopting GMA regulations that "prohibit uses legally existing on any parcel prior to their adoption." While a moratorium does not strictly prohibit any uses, it may prevent property owners for a period of time from applying for a permitted use. A property may claim that the effect is the same, albeit temporary, and that a moratorium may not be adopted.

With respect to moratoria adopted under laws other than the GMA, I-933's compensation provisions do not specify that the prohibitions must be permanent. As such, courts might determine that temporary moratoria are allowed, but would likely have to specify under what circumstances.

Q10: Section 2(2)(c)(i) includes in the list of regulations that are exempt from the compensation requirement regulations "[r]estricting the use of property when necessary to prevent an immediate threat to human health and safety." What is an "immediate" threat?

A: The answer is not clear. If a court were to use the dictionary definition, then this exemption would only narrowly apply to regulations necessary to prevent a threat to human health and safety that was occurring or was about to occur in the very near future. Regulations to prevent a direct discharge of contamination into a drinking water source, for example, would probably qualify. But whether regulations concerning longer-term threats, such as regulations for septic systems or the siting and operation of a landfill, would be exempt is unclear.

Q11: Section 2(2)(c)(ii) exempts regulations "[r]equiring

compliance with structural standards for buildings in building or fire codes to prevent harm from earthquakes, flooding, fire, or other natural disasters." Does this mean that any building code regulation that does not have to do with preventing "harm from earthquakes, flooding, fire, or other natural disasters" and that was not in place on January 1, 1996, cannot be enforced unless a city pays to do so?

A: The answer to this question will depend on how the courts interpret the "apply equally" criterion, as discussed in **Q4** above. If section 2(2)(c) is interpreted to exempt from the compensation requirements *all* regulations that "apply equally to all property subject to the agency's jurisdiction," not just the ones listed; and if "apply equally" is interpreted to mean treating similarly-situated property equally, then cities and town may still be able to apply equally post-1996 structural standards in building or fire codes that are not designed to prevent harm from natural disasters. Of course, since the state building code *requires* cities to enforce these codes, they may have no choice but to enforce them.

Section 3 – Compensation and Waiver

Q1: When does the compensation requirement in section 3 apply? What does it mean for a city or town to "decide to enforce or apply" a regulation?

A: Compensation is required under section 3 of I-933 if an agency "decides to enforce or apply" a regulation that would result in damaging the use or value of private property. If the agency "chooses not to take action," it is not liable for compensation. This language appears to give agencies the option to "waive," or not apply, the offending regulation and thereby avoid compensation. However, unlike Oregon's Measure 37, which clearly provides agencies with authority to waive laws (no compensation has been paid in Oregon on any claim to date), I-933 is ambiguous as to whether it provides waiver authority or whether it simply acknowledges that an agency may already have waiver authority in the laws it administers.

Q2: Would compensation be required under section 3 whether or not a development permit is being sought for a specific piece of property?

A: Yes, if the city or town is affirmatively choosing to "enforce or apply" the law. Section 3's compensation requirement is triggered if an agency "decides to enforce or apply" an offending regulation. If a property owner does not apply for a permit, and the agency does not seek to enforce the law, the compensation requirement is

not triggered.

Q3: When would the state or other agencies be liable for compensation for regulations applicable in cities?

A: If the regulation is purely local, that is, it is not adopted pursuant to state statute or regulation, the state or state agencies would likely not be liable for compensation. What is not clear, however, is whether the state bears some responsibility for compensation if the local law is adopted pursuant to a state law requirement.

For example, many cities and towns are required to adopt and enforce plans and regulations under the Shorelines Management Act (SMA). Those plans and regulations must be reviewed and approved by the Department of Ecology prior to local implementation. GMA plans and regulations are required at the local level, but aren't reviewed and approved by the state. Whether those differences are significant enough to make a case for a finding of an agency relationship is unknown.

Q4: What liability might a city incur if it decides to waive (not enforce) a regulation mandated by the state or federal governments in order to avoid compensation?

A: Good question! Again, we are not sure.

Q5: What liability might a city incur if it waives a regulation and the activity resulting from that waiver damages adjoining property?

A: This gets into areas of law dealing with negligence. It isn't clear how this would sort out and it likely depends on how courts ultimately interpret the so-called "pay or waive" provisions of I-933, should it be enacted.

Q6: If needed, how is the amount of compensation determined?

Section 2(2)(d) of I-993 defines "compensation" as "remuneration equal to the amount the fair market value of the affected property has been decreased by the application or enforcement of the ordinance, regulation, or rule." Therefore, governments will have to pay for the decrease in fair market value caused by the regulation. It also includes attorneys' fees reasonably incurred by the property owner in seeking to enforce I-933. How one determines whether, and to what extent, a land use regulation decreases fair market value is a complex matter.

Further, section 2(2)(d) states that to the extent any *portion* of the

property is required to be left in its natural state or without beneficial use by its owner, the amount of compensation due would be the fair market value of the portion of property required to be left in its natural state.

Section 5 - GMA AMENDMENTS

Q1: Section 5 is the only part of I-933 that specifically amends the Growth Management Act. What does this section mean and how does it differ from section 2(2)(b)(i) (requiring compensation for post-January 1, 1996 regulations)?

A: Section 5 of I-933 prohibits the adoption of any *new* GMA development regulations that prohibit uses that legally existed prior to the adoption of the regulation. Section 5 differs from section 2(2)(b)(i) in that it does not allow a local government to adopt such a regulation and then pay to apply it. Rather, it prohibits the adoption of any new regulation that prohibits an existing, legal use.

Q2: Does section 5 prohibit GMA cities or towns from making a use nonconforming—allowing its continuation but subjecting it to nonconforming use rules? If not, are legally existing uses then legal in perpetuity?

A: I-933 appears to prevent the creation of nonconforming uses. It prohibits changes to GMA regulations that would prohibit existing, legal uses. Since a nonconforming use is only created by virtue of regulations that otherwise prohibit that use, section 5 seems to limit a GMA city or town from creating any new nonconforming uses. Current legal uses would be legal in perpetuity.

General Questions

Q: Does I-933 affect a city's eminent domain authority?

No. Although Section 1, the purpose and intent section, discusses the power of eminent domain, the operative sections do not mention eminent domain authority. Curiously and despite this fact, the proponent's web site identifies three eminent domain actions (one by the state, one by a city, and one by the Seattle Monorail Authority) as the first three examples of "excessive regulations" that have damaged property.

Note that the Washington State Constitution does not authorize condemnation of private property for economic development, as was determined by the U.S. Supreme Court in *Kelo v. New London* to be authorized in certain circumstances under the federal constitution. The *Kelo* decision has been widely criticized by property rights organizations.

In closing...

As more information becomes available about I-933 – including how individual cities or others are interpreting its provisions, AWC will provide updates to cities and towns through our regularly scheduled publications and on our website.

If you have questions or comments on this topic, please feel free to contact AWC's Dave Williams at either (360) 753-4137 ext. 142 or (e-mail) davew@awcnet.org.

8/18/06

RESOLUTION NO. 251

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, OPPOSING INITIATIVE 933, ENTITLED "AN ACT RELATING TO PROVIDING FAIRNESS IN GOVERNMENT REGULATION OF PROPERTY"

WHEREAS, Initiative 933 (I-933) will be presented to the voters of the State of Washington at the general election on November 7, 2006, with the following official Ballot Title:

> Statement of the Subject: Initiative Measure 933 concerns government regulation of private property.
>
> Concise Description: This measure would require compensation when government regulation damages the use or value of private property, would forbid regulations that prohibit existing legal uses of private property, and would provide exceptions or payments.
> Should this measure be enacted into law? Yes [ ] No [ ]

and

WHEREAS, I-933 would require an agency, including a city government, that "decides" to "enforce or apply" any "ordinance, regulation or rule" to private property which would result in "damaging the use or value of private property" to first "pay compensation," as those phrases are defined and used in I-933, and

WHEREAS, I-933's definition of "damaging the use or value" would dramatically lower the threshold for compensation far below constitutional limits; and

WHEREAS, I-933's definition of "private property" includes virtually all interests in real as well as personal property, and

WHEREAS, because I-933's definition of "damaging the use or value" of private property includes no minimum threshold for the reduction of use or value, virtually any limitation on the use of private property creates a cause for a compensation claim for

"damages" within the meaning of I-933, regardless of the importance of the public protection achieved by such limitation; and

WHEREAS, by its terms, the provisions of I-933 are to be "liberally construed" (Section 6) and its exceptions "shall be construed narrowly" (Section (2)(c), and

WHEREAS, the exceptions listed in Section (2)(c) do not list nuisance uses that typically would be precluded from residential neighborhoods, and thus I-933 would authorize claims for payment or waiver for city regulations that prohibit a wide variety of obnoxious land uses and activities that would seriously degrade property values of such residential neighborhoods; and

WHEREAS, I-933 would deprive local jurisdictions, including the City of Shoreline, of the ability to adopt and enforce reasonable land use development standards to mitigate traffic impacts, assure appropriate building height and lot coverage maxima, provide for the preservation of open spaces and protection of environmentally sensitive areas; and other general development regulations necessary to promote the public health, safety and welfare, and

WHEREAS, I-933 erroneously assumes that local jurisdictions have authority to "decide" not to enforce or apply their duly adopted ordinances, regulations and rules, without granting express authority to pay compensation or waive the enforcement or application thereof; and

WHEREAS, an analysis dated August 18, 2006 by the Association of Washington Cities has estimated that the state-wide annual administrative costs to cities alone would be between $60 million and $76 million, while the state-wide annual cost to cities for paying off claims is estimated to be between $3.5 billion and $4.5 billion; and

WHEREAS, by dividing this state-wide city estimate by the number of households in Washington cities, as set forth in U.S. Census data, it is estimated that the average fiscal impact of I-933 on city taxpayers in Washington is between $2,410 and $3,078 per household every year; and

WHEREAS, the cost of processing and paying compensation for the enforcement of reasonable development regulations under I-933 would far exceed the requirements of both the federal and state constitutions and cripple the fiscal ability of the City to provided needed public safety, infrastructure and other public services, and

WHEREAS, prior to adoption of this resolution, the City of Shoreline has given notice of the meeting at which it was considered containing the official Ballot Title of Initiative 933, and has afforded equal opportunity at the meeting for any person to express an opposing view, now, therefore, be it

RESOLVED by the City Council of the City of Shoreline, Washington, that the City of Shoreline opposes adoption of Initiative 933, and urges its rejection by the voters.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 11, 2006.

_____
Robert L. Ransom, Mayor

ATTEST:

_____
Scott Passey, CMC
City Clerk

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Council Meeting Date: September 11th, 2006 **Agenda Item:** 9(a)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No.440, a Site Specific Rezone located at 932 N 199th Street. File No. 201523
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joe Tovar, PADS Director Steven Szafran, Planner II

PROBLEM/ISSUE STATEMENT:
The issue before the City Council is a Site Specific Rezone for a portion of an 18,039 square foot parcel located at 932 N. 199th Street (see **Attachment C1**). The applicant, Eric Sundquist, is requesting to change an approximately 7,300 square foot portion of the site from R-12 (Residential - 12 dwelling units per acre) to R-24 (Residential 24 dwelling units per acre).

The applicant is proposing to construct 8 townhomes and one single-family home (6 of the townhomes and the single-family home were previously noticed and have building permits issued). The zone change is only on the portion of the site where the townhomes will be located (See **Attachment C3**). The proposed zone change will allow two more townhomes to be built. The portion of the lot where the single-family home will be built will remain at an R-12 zoning.

A rezone of property in single ownership is a Quasi-Judicial decision of the Council. An open record public hearing was conducted before the Planning Commission on August 3rd, 2006. Council's review must be based upon the written record and no new testimony may be accepted. The Planning Commission completed its recommendation to Council on the proposed Rezone on August 3rd, 2006.

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

- The Council could adopt the zoning requested by the applicant and recommended by the Planning Commission and Staff (a rezone from R-12 to R-24) by adopting Ordinance No. (**Attachment A**).
- The Council could deny the rezone request, leaving the zoning at R-12 and R-24 (as it currently exists).

FINANCIAL IMPACTS:

- There are no direct financial impacts to the City.

RECOMMENDATION

Staff recommends that the Council adopt Ordinance No.440, (**Attachment A**) thereby approving the rezone of a portion of one parcel located generally at 932 N 199th Street from Residential 12 units per acre (R-12) to Residential 24 units per acre (R-24).

Approved By: City Manager ___ City Attorney ___

INTRODUCTION

The rezone application before Council is a request to change the zoning designation for a portion of one parcel generally located at 932 N 199th Street from R-12 to R-24.

A public hearing before the Planning Commission was opened and closed on August 3rd, 2006. The Planning Commission Findings and Recommendation are included in **Attachment B**

The Planning Commission recommended that the rezone of the property from R-12 to R-24 be approved. The draft minutes of the public hearing are included in **Attachment D**.

BACKGROUND

In 1998 the City of Shoreline adopted its first Comprehensive Plan. This document includes a map that identifies future land use patterns by assigning each area a land use designation. The subject parcel, and those adjoining it to the north and south were designated High Density Residential in the Comprehensive Plan. The Comprehensive Plan document specified: R-12 through R-48 as appropriate zoning districts for this designation. The current zoning (R-12) and the requested reclassification (R-24) of the parcel are both consistent with the High Density Residential land use designation.

The site is currently zoned R-12 and R-24. Approximately 7,300 square feet of the parcel is zoned R-24 and 10,700 square feet of the parcel is zoned R-12. Under the proposed zone change, approximately 14,600 square feet would be zoned R-24 and 3,400 square feet would be zoned R-12. The density of the proposed development is similar to the density of the existing condominiums to the north and a lower density than that of the multifamily development to the east.

The subject site had one single-family home that was demolished at the end of 2005. The applicant submitted an application for building permits to construct a new single-family home and six attached townhomes on the site. This zone change will allow two additional townhomes to be built on the site.

PROCESS

The application process for this project began on March 11th, 2005, when the applicant held a pre-application meeting with city staff. A neighborhood meeting was held on March 30th, 2005 with property owners within 500 feet of the proposed rezone. The formal application was submitted to the city on April 4th, 2006 and was determined complete on April 17th, 2006.

The requisite public hearing was held before the Planning Commission on August 3rd, 2006. The Planning Commission made a recommendation and formulated Findings and Determination on the night of the public hearing. The Planning Commission voted to recommend approval of the rezone with no added conditions.

PUBLIC COMMENT
The City received 6 comment letters in response to the standard notice procedures for this application prior to the public hearing. The property owner and several adjacent neighbors testified at the Planning Commission public hearing on this proposed action.

The comments (Attachments C4 and D) focused on the following issues:

- Access
- Traffic
- Parking
- Loss of privacy and clearing of trees

The Planning Commission addressed the comments in its Findings and Determination (Attachment B).

OPTIONS
The following options are: 1) The adoption of the Planning Commission recommendation, 2) Adoption of the Planning Commission recommendations or 2) Denial of the rezone request.

REZONE TO R-24 – PLANNING COMMISSION RECOMMENDATION
The applicant has requested that a portion of the subject parcel be rezoned to R-24. Planning Commission in its Findings and Determination found that a rezone to R-24 has been evaluated and found to be consistent with the rezone decision criteria, listed below, provided in Section 20.30.320(B) of the Development Code.

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

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

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

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

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

DENIAL OF REZONE REQUEST
The Council may review the written record and determine that the existing R-12 and R-24 zoning is the most appropriate designation for the subject parcel. This determination would be consistent with the Comprehensive Plan designation of "High Density Residential" for the parcel, as this designation includes both the existing zoning (R-12) and the requested zoning (R-24). The property owner has obtained permits to build one

single-family home and six attached townhomes that conform to the current density standard.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No.440, (**Attachment A**) thereby approving the rezone of a portion of one parcel located at 932 N 199th Street from Residential 12 units per acre (R-12) to Residential 24 units per acre (R-24).

ATTACHMENTS

Attachment A: Ordinance No.440: R-12 to R-24.
- Exhibit 1– Planning Commission Findings and Determination
- Exhibit 2 – Legal Description and Map

Attachment B: Planning Commission Staff Report
- C1: Site Plan
- C2: Vicinity Map with Zoning Designations
- C3: Vicinity Map with Comprehensive Plan Land Use Designations
- C4: Map Depiction of Proposed Zone Change
- C5: Public Comment Letters

Attachment C: Draft Planning Commission Minutes- August 3rd, 2006

ORDINANCE NO. 440

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP TILE NUMBER 434 CHANGING THE ZONING FROM RESIDENTIAL 12 DU-AC (R-12) TO RESIDENTIAL 24 DU-AC (R-24) OF A PORTION OF ONE PARCEL LOCATED AT 932 N 199th STREET (PARCEL NUMBER 2227900032).

WHEREAS, the owner of the property, with parcel number 2227900032, has filed an application to reclassify a portion of the property from Residential 12 units per acre (R-12) to Residential 24 units per acre (R-24); and

WHEREAS, on August 3rd, 2006, 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 August 3rd, 2006, 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 Determinations of the Planning Commission specifically that the reclassification of property, located at 932 N 199th Street (parcel number 2227900032) to R-24 is consistent with the goals and policies of 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 Determinations on File No. 201523 as set forth by the Planning Commission on August 3rd, 2006 and as attached hereto as Exhibit 1 is hereby adopted.

Section 2. Amendment to Zoning Map. The Official Zoning Map Tile 434 of the City of Shoreline is hereby amended to change the zoning classification of a portion of parcel number 2227900032, located at 932 N 199th Street and further described and depicted in Exhibit 2 attached hereto, from R-12 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 SEPTEMBER 11, 2006.

Mayor Robert L. Ransom

ATTEST:

Scott Passey
City Clerk

Date of Publication:
Effective Date:

APPROVED AS TO FORM:

Ian Sievers
City Attorney

FINDINGS AND DETERMINATION OF THE CITY OF SHORELINE PLANNING COMMISSION

Sundquist Rezone Request File #201523

Summary-
Following the public hearing and deliberation on the request to change the zoning designation for a portion of a 18,039 Sq. Ft. parcel located at 932 N 199th Street, 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 Rezone a portion of the subject parcel from R-12 (Residential 12 units per acre) to R-24 (Residential 24 units per acre) in order to allow two additional townhomes on the site.

1.2 Site Address: 932 N 199th Street

1.3 Parcel Number: 2227900032

1.4 Zoning: R-12 and R-24

1.5 The subject property has a land use designation of High Density Residential identified on the City of Shoreline's Comprehensive Plan Land Use Map. A High Density Residential designation is consistent with the following zoning: R-12, R-18, R-24 and R-48.

2. Procedural History-

2.1 Public hearing held by the Planning Commission: August 3rd, 2006

2.2 Corrected Notice of Public Hearing and SEPA Determination of Nonsignificance: August 3rd, 2006

2.3 End of 14 day Public Comment Period: July 13th, 2006

2.4 Corrected Notice of Application with Optional DNS: June 29th, 2006

2.5 Complete Application Date: April 17th, 2006

2.6 Application Date: April 4th, 2006

2.7 Neighborhood meeting Date: March 30th, 2005

3. **Public Comment-**

3.1 The following individuals participated in Neighborhood Meetings:

2 people attended the required Neighborhood Meeting. General comments included timing of the project and how the units would look.

Written Comments have been received from:

Approximately 8 letters were received in response to the standard notice procedures for this application.

3.2 Oral testimony has been received from:

In addition to the applicant, several adjacent property owners testified at the open record public hearing. The comments included: Access, traffic, parking, loss of privacy and clearing of trees.

4 **SEPA Determination-**

4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. 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). A notice of determination of nonsiginificance was issued on August 3rd, 2006.

7. **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).

5.2 A recommendation to approve the Rezone does not constitute approval for any development proposal. Applicable permits shall be obtained prior to construction. Permit applications shall show compliance with the 1998 King County Storm Water Design Manual and Title 20 of the Shoreline Municipal Code (SMC). Applicable sections of the SMC include but are not limited to the following: Dimensional and Density Standards 20.50.010, Tree Conservation 20.50.290, Surface and Stormwater Management 20.60.060, and Streets and Access 20.60.140 and any conditions of the Rezone.

II. CONCLUSIONS

SITE REZONE:

Rezones are subject to 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.

1. **The rezone is consistent with the Comprehensive Plan.**
   The Comprehensive Plan land use map identifies the subject property as *High Density Residential.* The goals and policies of the Comprehensive Plan for this site call for the accommodation of up to 48 dwelling units per acre. The proposed zone change will allow the parcel to be developed to a higher level that was anticipated in the Comprehensive Plan.

   The site is currently under development. The site will be redeveloped with 9 dwelling units at a density of 21.7 du/ac. The townhomes will be compatible with the existing condominiums to the north and to the east. The single-family home that is being built on the site will be compatible to the existing single-family homes to the west and south.

2. **The rezone will not adversely affect the public health, safety or general welfare.**
   Staff concludes the proposed rezone and redevelopment of this site will not adversely affect the public health, safety and welfare of the surrounding neighborhood and community.

- The applicant has submitted letters from the sewer and water district stating that the necessary infrastructure currently exists to accommodate new development.
- The proposed new development will be required to install landscape buffers on the north and east sides of the property to buffer adjacent home owners from the future new dwelling units.
- Sufficient parking is proposed for garages and in the driveways of the new townhome units.
- New development will be required to install sidewalks which will add to the public safety of the surrounding community.
- The clearing of trees was allowed under the Shoreline Development Code. The applicant had the right to take down the six significant trees on the property.
- Staff has concluded the traffic impacts will not be a substantial burden on the surrounding community. The proposed rezone would add two additional townhomes

to a site that has already been approved for six townhomes and one single-family home.

3. **The rezone is warranted in order to achieve consistency with the Comprehensive Plan.**
The subject parcel is currently zoned R-12 and R-24. Right now, the site has approval to build one single-family home with 6 attached townhome under the current zoning category. The application to change the zoning on a portion of the parcel to R-24 was made in order to develop the site at a density similar to that developed adjacent to the site on the north. The site's Comprehensive Plan land use designation is *High Density Residential*. Consistent zoning designations for this land use include: R-12 through R-48.

The applicant's proposal for 8 townhomes and one single-family home is supported by the goals and policies of the Comprehensive Plan. R-24 zoning is an appropriate designation for the subject site, as it reflects a transition from Rregional Bbusiness zoning along Aurora Ave to the R-12 and R-6 density residential development to the west.

4. **The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.**
At this time the proposed rezone appears to have minimal negative impacts to the properties in the immediate vicinity. Development of the property under he proposed rezone would result in equal or lesser densities than those currently existing north and east of the subject parcel. The Richmond Firs Condominiums directly north are developed at 21 du/ac and the cCondominium development directly east is developed at 44.5 du/ac. ItThe proposed zoning and development provides a reasonable transition to the R-12 density to the west.

5. **The rezone has merit and value for the community.**
The redevelopment of the site will contribute to an increase in housing units and provide alternative housing options within the City. The proposed townhomes are an affordable option compared to new detached single-family construction. Additionally, this site is an appropriate place to accommodate higher density development considering the intensity of the adjacent Commercial and High Density uses to the east, because it is free of environmentally sensitive features, and because of close proximity to alternative transit options and infrastructure.

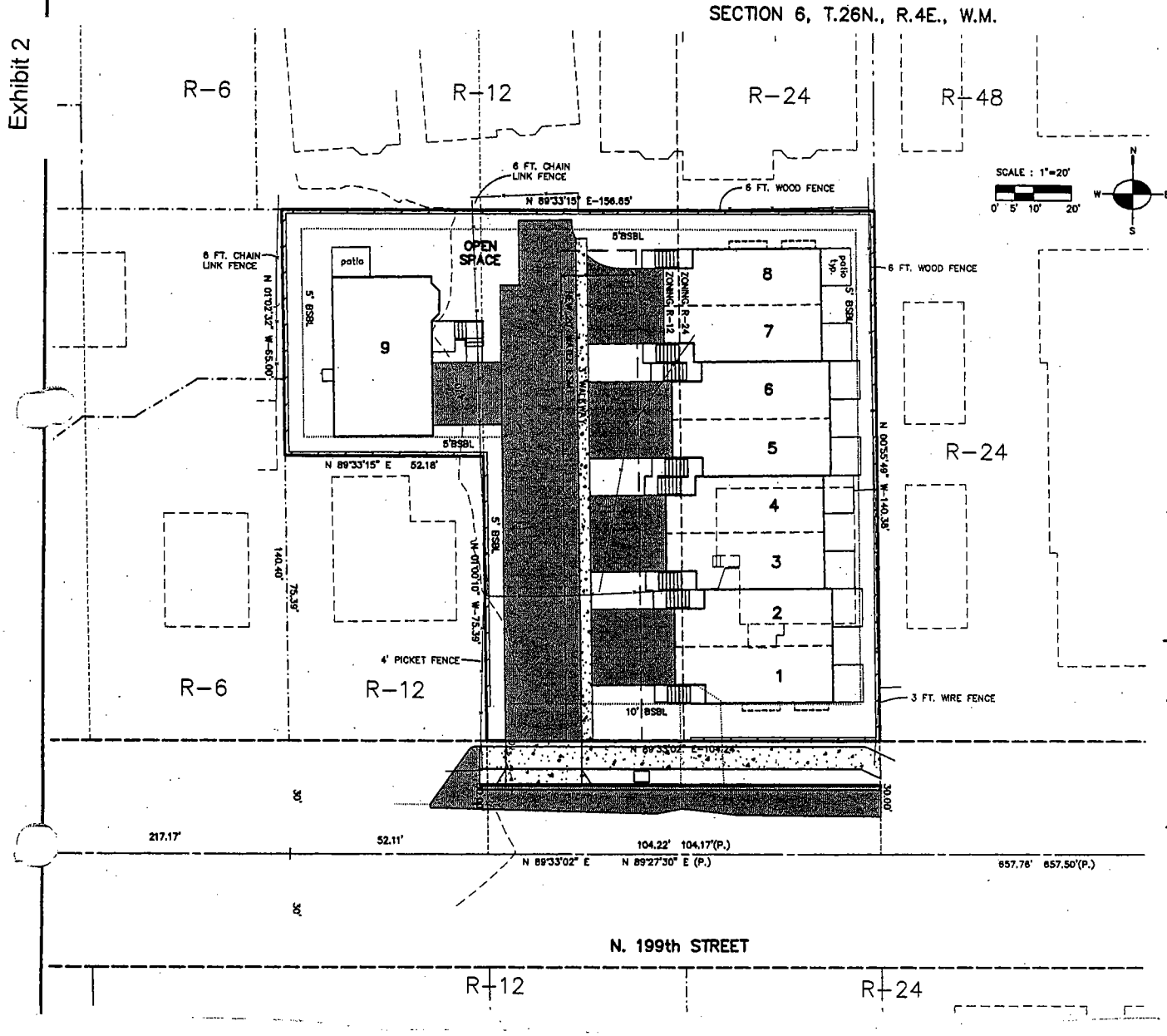
III. RECOMMENDATION

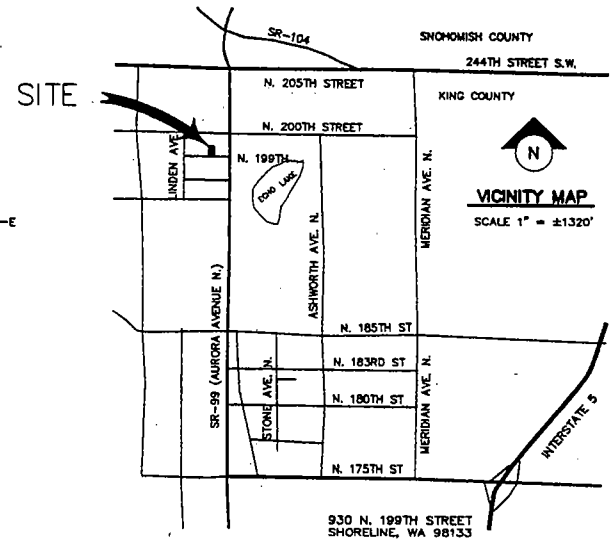
Based on the Findings, the Planning Commission recommends approval of application #201523; a rezone from R-12 to R-24.

City of Shoreline Planning Commission

Rocky Hill Date: 29 AUG 2006
Chairperson

Exhibit 2





930 N. 199TH STREET
SHORELINE, WA 98133

LEGAL DESCRIPTION

THE SOUTH HALF OF LOT 3 AND THE NORTH 65 FEET OF THE EAST HALF OF THE SOUTH HALF OF LOT 4, ECHO LAKE PARK DIV. NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 28, OF PLATS, PAGE 48, RECORDS OF KING COUNTY, WASHINGTON.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

DATUM

NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD 29)

BENCHMARK

WASHINGTON GEODETIC SURVEY BENCHMARK NO. 2 A 10-S 1
TYPE OF MONUMENT: MONEL RIVET
LOCATION: SET IN SOUTHWEST END OF RETAINING WALL, 7' SOUTHWEST OF SOUTHEAST CORNER OF JOE'S TAVERN ON THE EAST SIDE OF AURORA AVENUE AND THE NORTH SIDE OF ECHO LAKE PLACE
ELEVATION: 434.21

T.B.M.

SPIKE IN SOUTH SIDE OF UTILITY POLE ±105 FT. EAST OF THE SOUTHEAST PROPERTY CORNER

ELEVATION : 460.14

SITE ADDRESS

930 N. 199TH STREET
SHORELINE, WA 98133

TAX ACCOUNT NUMBERS

2227900032 & PORTION OF 2227900042

EXISTING ZONING

R-12 & R-24

PROPOSED ZONING

R-24

SITE AREA

18,039 S.F. OR 0.41 ACRES

OWNER/DEVELOPER

QUALITY BUILT HOMES NW, LLC
P.O. BOX 1034
LYNNWOOD, WASHINGTON 98046
TELEPHONE: 425-870-2711
FAX: 425-774-6315
CONTACT PERSON: ERIC SUNDQUIST

ENGINEER/SURVEYOR/PLANNER

LOVELL-SAUERLAND & ASSOCIATES, INC.
19400 - 33RD AVE. W., SUITE 200
LYNNWOOD, WASHINGTON 98036
TELEPHONE: 425-775-1591
FAX: 425-672-7998
CONTACT PERSON: S. MICHAEL SMITH

19

R-24 REZONE
FOR
ERIC SUNDQUIST
IN SE1/4, NW1/4, SECTION 6, T.26N., R.4E., W.M.
CITY OF SHORELINE
KING COUNTY, WASHINGTON

SHEET 1 OF 1

REVISED SUBDIVISION ELEMENT

Commission Meeting Date: August 3rd, 2006 Agenda Item:

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Type C Action: Rezone Application for a portion of one parcel generally located at 932 N. 199th St. from R-12 (Residential 12 dwelling units/acre) to R-24 (Residential 24 dwelling units/acre).
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Steven Szafran, Planner II

I. PROPOSAL

The applicant, Eric Sundquist, proposes to modify the existing zoning category for a portion of an 18,039 square foot parcel located at 932 N. 199th Street. This application before the Planning Commission is a request to change an approximately 7,300 square foot portion of the site from R-12 (Residential - 12 dwelling units per acre) to R-24 (Residential 24 dwelling units per acre).

The applicant is proposing to construct 8 townhomes and one single-family home (6 of the townhomes and the single-family home were previously noticed and have building permits issued). The zone change is only on the portion of the site where the townhomes will be located (See **Attachment 4**). The proposed zone change will allow two more townhomes to be built. The portion of the lot where the single-family home will be built will remain at an R-12 zoning.

A site plan showing the site configuration of the proposal is included as **Attachment 1**. A vicinity map showing existing zoning for the project site and adjacent properties is located in **Attachment 2**. The parcel has a Comprehensive Plan Land Use designation of High Density Residential, and both the existing and proposed zoning are consistent with this designation (**Attachment 3** illustrates the comprehensive plan land use designations of the surrounding vicinity).

With the current zoning of R-24 and R-12 there is the potential to build 7 dwelling units on the subject site subject to the Shoreline Development Code Standards. The proposed rezone would allow the construction of 2 additional townhomes, subject to the requirements of the Shoreline Municipal Code (SMC) section 20.30.

Under the Appearance of Fairness Doctrine, local land use decisions that are not of area wide significance shall be processed as quasi-judicial actions. Because this is a Site Specific Zone Change it shall be processed per RCW 42.36.010 as a Type C quasi-judicial action.

This report summarizes the issues associated with this project and discusses whether the proposal meets the criteria for rezone outlined in the Shoreline Municipal Code and the goals of the Comprehensive Plan. Type C Actions are reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval or denial is developed. This recommendation is then forwarded to City Council, which is the final decision making authority for Type C Actions.

II. FINDINGS

1. SITE

The subject site is generally located on the north side of N. 199th St. between Aurora Ave N. and Linden Avenue. There was a single-family residence on-site that was recently demolished. The parcel measures 18,039 square feet in area (approximately .4 acres). Currently the parcel has a split zoning of R-12 and R-24. Approximately 7,300 square feet of the parcel is zoned R-24 and 10,700 square feet of the parcel is zoned R-12. The site is gently sloping up from east to west. The site has been cleared of most vegetation.

2. NEIGHBORHOOD

The project site is located in the Hillwood Neighborhood. Access to the property is gained from N. 199th Street, a street that is classified as a Local Street. As indicated previously the site is zoned R-12 and R-24 and has a land use designation of High Density Residential. The current zoning of the parcel to the north is also R-24 and R-12 and is developed with a condominium complex developed at approximately 21 dwelling units per acre. To the west are two single-family homes zoned R-6, to the east is an apartment complex zoned R-24 and R-48 developed at approximately 44.5 dwelling units per acre and to the south, across N. 199th St. is a single-family home zoned R-24 and a duplex zoned R-12. Parcels to the north and south have a land use designation of High Density Residential. Parcels to the east have a land use designation of Community Business and parcels to the west are designated for Low Density Residential development. The zoning classifications and Comprehensive Plan Land Use designations for the project sites and immediate vicinity are illustrated in **Attachments 2 and 3**.

3. TIMING AND AUTHORITY

The application process for this project began on March 11th, 2005, when a pre-application meeting was held with the applicant and city staff. The applicant then held the requisite neighborhood meeting on March 30th, 2005. The formal application was then submitted to the City on April 4th, 2006. The application was determined complete on April 17th, 2006. A Public Notice of Application was posted at the site, advertisements were placed in the Seattle Times and Shoreline Enterprise, and notices were mailed to property owners within 500 feet of the site on April 27th, 2006. The Notice of Public Hearing and SEPA Determination was posted at the site, advertisements were placed in the Seattle Times and Shoreline Enterprise, and notices

were mailed to property owners within 500 feet of the site on May 18th, 2006. Due to a flaw in the notice, a corrected Notice of Application was sent out on June 29th, 2006 and a corrected Notice of Public Hearing was sent out on July 20th, 2006.

No comments were received at the neighborhood meeting but staff has received comment letters in regards to the proposed project during the required comment period (**Attachment 4**). The comments are addressed in the zoning criteria section under Criterion 4.

Rezone applications shall be evaluated by the five criteria outlined in Section 20.30.320 (B) of The Shoreline Municipal Code (SMC). The City Council may approve an application for rezone of property if the five decision criteria are met.

5. CRITERIA

The following discussion shows how the proposal meets or does not meet the decision criteria listed in Section 20.30.320(B) of the SMC. Because the criteria are integrated, similar themes and concepts run throughout the discussion.

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

The Comprehensive Plan land use map identifies the subject property as *High Density Residential*. The site is currently underutilized—the parcel is developed with one single family home—this is not consistent with the density goals and policies of the Comprehensive Plan which plans for this site to accommodate up to 48 dwelling units per acre. The proposed zone change will allow the parcels to be developed to a higher level that was anticipated in the Comprehensive Plan.

If R-24 becomes the adopted zoning for the site there will be the ability for the applicant to place a maximum of 9 homes on the subject parcel.

The following table summarizes the bulk requirements for the current zoning and the potential R-24 zoning.

Standard	R12 Development	R24 Development
Front Yard Setback	10'	10'
Side Yard Setback	5'	5'
Rear Yard Setback	5'	5'
Building Height	35'	35' (40' w/pitched roof)
Building Coverage	55%	70%
Max Impervious Surface	75%	85%

The Shoreline Comprehensive Plan has established a growth target of 1,600-2,400 new housing units during the next 20-year planning period. The Comprehensive Plan identified different areas of the City where growth will likely occur and can be accommodated. A Comprehensive Plan Land Use map was adopted, and in some areas of the City allowed densities and intensity of uses to be increased. In many instances this change occurred in areas that had previously developed at a much lower intensity (as is the case of the subject parcel) and more dense development was anticipated in the future when the underutilized parcels were redeveloped.

R-24 zoning is an appropriate designation for the site in order to achieve many goals and policies of the Comprehensive Plan, including:

> *Goal LU I: Ensure that the land use pattern of the City encourages needed, diverse, and creative development, protects existing uses, safeguards the environment, reduces sprawl, promotes efficient use of land, encourages alternative modes of transportation and helps maintain Shoreline's sense of community.*
>
> *Goal LU IV: Encourage attractive, stable, quality residential and commercial neighborhoods that provide a variety of housing, shopping, employment and services.*
>
> The neighborhood will benefit by this development by having new homes that are more affordable than the typical new single-family detached home. The site is currently underdeveloped and this project will match densities expected in the Comprehensive Plan making more efficient use of the land. The site is within walking distance to schools, parks, shopping and transit.
>
> *LU 8: Ensure that land is designated to accommodate a variety of types and styles of housing units adequate to meet the future needs of Shoreline citizens.*
>
> The development proposed are smaller single-family attached homes for residents that don't need a large home and want something other than typical suburban development.
>
> *Goal H I: Provide sufficient development capacity to accommodate the 20 year growth forecast in an appropriate mix of housing types by promoting the creative and innovative use of land designated for residential and commercial use.*
>
> Under the High Density Residential Land Use designation, the R-24 zoning category will allow up to 9 homes to be built instead of 7 allowed under the current R-24 and R-12 mixed zoning designation. The proposed

homes have small building footprints and square footage to promote alternative housing types for existing and future residents.

H 6: Encourage infill development on vacant or underutilized sites to be compatible with existing housing types.

The site is currently underutilized. The site will be redeveloped with 9 dwelling units at a density of 21.7 du/ac. The townhomes will be compatible with the existing condominiums to the north and the apartments to the east. The single-family home that is being relocated on the site will be compatible to the existing single-family homes to the west and south.

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

Staff concludes the proposed rezone and redevelopment of this site will not adversely affect the public health, safety and welfare of the surrounding neighborhood and community.

- The applicant has submitted letters from the sewer and water district stating that the necessary infrastructure currently exists to accommodate new development.
- The proposed new development will be required to install landscape buffers on the north and east sides of the property to buffer adjacent home owners from the future new dwelling units.
- Sufficient parking is proposed for garages and in the driveways of the new townhome units.
- New development will be required to install sidewalks which will add to the public safety of the surrounding community.
- Staff has concluded the traffic impacts will not be a substantial burden on the surrounding community. The proposed rezone would add two additional townhomes to a site that has already been approved for six townhomes and one single-family home.

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

The subject parcel is currently zoned R-12 and R-24. Right now, the site is developed with one single-family house which is underdeveloped under the current zoning category. The application to change the zoning on a portion of the parcel to R-24 was made in order to develop the site at a density similar to that developed adjacent to the site on the north. The site's Comprehensive Plan land use designation is *High Density Residential.* Consistent zoning designations for this land use include: R-12 through R-48.

The current zoning in the vicinity of the project includes R-6, R-12, R-24, R-48, and Regional Business zoning. The uses in the area include single-family houses, duplexes, triplexes, multi-family apartment buildings, a new tire store, restaurants,

Aurora Village Shopping Center and the Aurora Village Park and Ride. The subject property will take access from N. 199th Street, a local street. The Comprehensive Plan states that the High Density Residential Land Use designation is intended for areas near employment and commercial areas; where high levels of transit service is 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 uses.

The applicant's proposal for 8 townhomes and one single-family home is supported by the goals and policies of the Comprehensive Plan. R-24 zoning is an appropriate designation for the subject site, as it reflects a transition from regional business zoning along Aurora Ave to the R-12 and R-6 density residential development to the west.

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

At this time the proposed rezone appears to have minimal negative impacts to the properties in the immediate vicinity. Development of the property under he proposed rezone would result in equal or lesser densities than those currently existing north and east of the subject parcel. The Richmond Firs Condominiums directly north are developed at 21 du/ac and the Condominium development directly east is developed at 44.5 du/ac. It provides a reasonable transition to the R-12 density to the west.

Concerns have been raised by adjacent neighbors concerning appropriateness of the zoning, less privacy, increased traffic and noise, no parking, and work without permits. The following brief summary demonstrates how the project addresses each of these.

Zoning as Transition

The City adopted the Comprehensive Plan and designated certain areas as areas where higher densities should occur. The subject parcel is in one of those areas higher density areas. R-24 is an appropriate zoning category under the High Density Residential land use designation. The R-24 zoning category also matches the R-24 zoning category on the parcel to the north creating a logical transition between the two properties.

Less Privacy

The applicant will be required to comply with the landscaping and screening standards mentioned in the Development Code. This generally includes a five foot landscape buffer consisting of trees, shrubs and ground cover. The building setback is five feet from the property line in either the R-12 or R-24 zoning category.

Traffic/Circulation

The applicant is proposing to build 8 townhomes and one single-family home on the subject parcel. The P.M. peak hour vehicular trips will be 1.01 (1.01 X 1) for the single-family home and 4.32 (.54 x 8) for the townhomes. The total P.M. peak hour trips for the

total development are 5.33. Since the P.M. peak hour trips are not greater than 20, a traffic study was not required (SMC 20.60.140(A)).

During site development sidewalks will be required along the southern boundary of the project area. Sidewalks are developed in pieces in this general area. As parcels redevelop, new sidewalks will be required. It appears that there is adequate vehicular and pedestrian access to the site.

Parking
Each dwelling unit on-site is required to have at least two parking spaces. The single family home has a two-car garage and space in the driveway to park additional cars. The townhome units have a one-car garage and one space in the driveway for parking. The development is meeting parking requirements per the City's Development Code.

Work without Permits
The adjacent property owners to the north have commented on site work being done without permits; specifically removal of trees and grading of the site. The City requires the property owner obtain a permit for clearing more than six significant trees and grading more than 50 cubic yards of material. The City relies on complaints from the community if significant work is being done without permits. No complaints were ever filed with the City. By the time the owner submitted building permits to the City, the site was cleared and evidence of any trees could not be confirmed.

Criteria 5: The rezone has merit and value for the community.
The redevelopment of the site will contribute to an increase in housing units and help the City to achieve its housing targets. The proposed townhomes are an affordable option compared to new detached single-family construction. Additionally, this site is an appropriate place to accommodate higher density development considering the intensity of the adjacent Commercial and High Density uses to the east, because it is free of environmentally sensitive features, and because of close proximity to alternative transit options and infrastructure.

Further, a policy of the plan is to "preserve environmental quality by taking into account the land's suitability for development and directing intense development away from natural hazards and important natural resources" (Comprehensive Plan policy LU1). The site does not have any identified critical areas, it is generally flat, and it has good access to public facilities. It is reasonable to encourage, within the provisions of the Development Code, redevelopment and intensification of uses on of parcels such as these.

Therefore it has been shown that these improvements will add benefit to the community.

III. CONCLUSIONS

1. **Consistency-** The proposed reclassification for the subject properties is consistent with the Washington State Growth Management Act, the City of Shoreline Comprehensive Plan, and the City of Shoreline Development Code.
2. **Compatibility-** The proposed zoning is consistent with existing and future land use patterns identified in the Comprehensive Plan.
3. **Housing / Employment Targets-** The current residential density is underutilized per the density guidelines listed in the Comprehensive Plan for the *High Density Residential* land use designation. The project assists the City of Shoreline in meeting housing targets as established by King County to meet requirements of the Growth Management Act.
4. **Environmental Review-** It has been determined that per WAC 197.11.600 (2) the SEPA obligations for analyzing impacts of the proposed rezone are fulfilled by previous environmental documents on file with the City. The FEIS prepared for the City of Shoreline's Comprehensive Plan, dated November 9, 1998, and is incorporated by reference to satisfy the procedural requirements of SEPA.
5. **Infrastructure Availability-** 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 accommodate existing and anticipated stormwater improvements be installed as part of the development proposal.

IV. PLANNING COMMISSION ROLE AND OPTIONS

As this is a Type C action, the Planning Commission is required to conduct a Public Hearing on the proposal. The Commission should consider the application and any public testimony and develop a recommendation for rezone approval or denial. The City Council will then consider this recommendation prior to their final adoption of the application.

Planning Commission has the following options for the application:

1. Recommend approval to rezone a portion of the site at 932 N 199th Street (parcel number 2227900032) from Residential 12 units per acre (R-12) to Residential 24 units per acre (R-24) based on the findings presented in this staff report.
2. Recommend approval to rezone, with conditions, a portion of the site at 932 N 199th Street from R-12 to R-24 based on findings presented in this staff report and additional findings by the Planning Commission.
3. Recommend denial of the rezone application. The Residential 12 units per acre (R-12) zoning remains based on specific findings made by the Planning Commission.

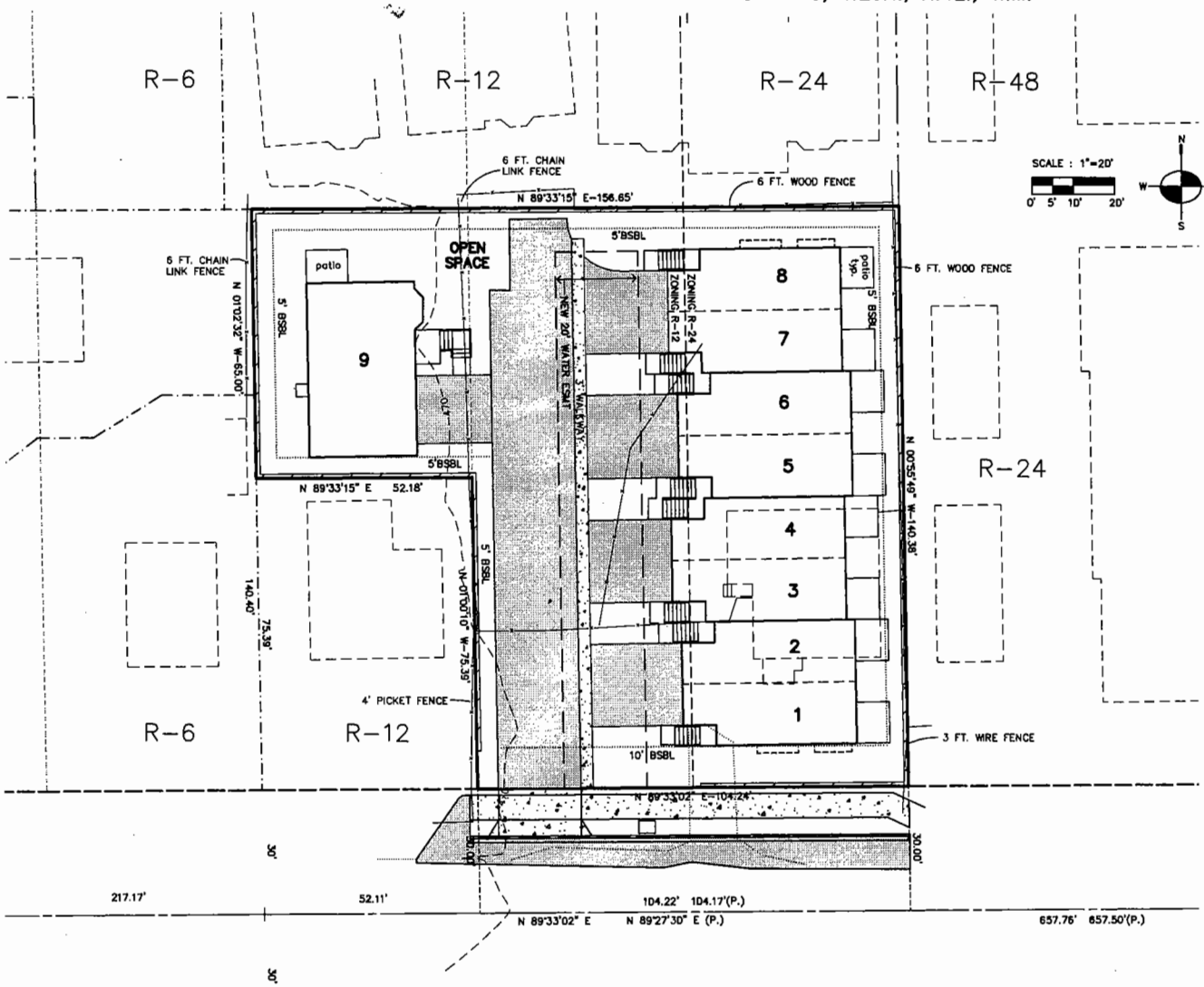
V. PRELIMINARY STAFF RECOMMENDATION

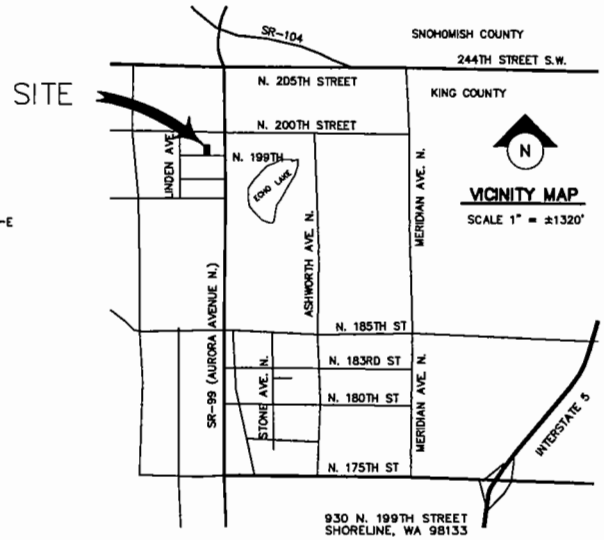
Staff recommends that the Planning Commission move to recommend to the City Council that R-24 zoning be adopted for a portion of the property generally located at 932 N 199th Street (parcel number 2227900032). Enter into findings based on the information presented in this staff report that this proposal meets the decision criteria for the reclassification of property as outlined in the Shoreline Municipal Code Section 20.30.320.

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Vicinity Map with Zoning Designations
Attachment 3: Vicinity Map with Comprehensive Plan Designations
Attachment 4: Map depiction of the Proposed Zone Change
Attachment 5: Public Comment Letters

SECTION 6, T.26N., R.4E., W.M.





VICINITY MAP
SCALE 1" = ±1320'

930 N. 199TH STREET
SHORELINE, WA 98133

LEGAL DESCRIPTION

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SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

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NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD 29)

BENCHMARK

WASHINGTON GEODETIC SURVEY BENCHMARK NO. 2 A 10-S 1
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SPIKE IN SOUTH SIDE OF UTILITY POLE ±105 FT. EAST OF THE SOUTHEAST PROPERTY CORNER

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PROPOSED ZONING

R-24

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OWNER/DEVELOPER

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FAX: 425-672-7998
CONTACT PERSON: S. MICHAEL SMITH

BUILDING COVERAGE CALCULATIONS

8 UNIT TOWNHOUSE + 1 SINGLE FAMILY RESIDENCE = 5,828 SF (32.31% OF SITE)
ALLOWED = 12,627 SF (70% OF SITE)

OPEN SPACE CALCULATION

REQUIRED OPEN SPACE :
TOWNHOUSE (170 SF PER UNIT) = 170SF x 8 = 1,360 SF
TOT-LOT = 400 SF
TOTAL REQUIRED = 1,760 SF

PROVIDED OPEN SPACE :
TOWNHOUSE-PRIVATE YARD: 6@ 150SF + 2@ 180SF= 1,260 SF
TOWNHOUSE-DECKS: 8@ 63SF (6'X10.5') = 504 SF
TOT-LOT = 400 SF
TOTAL REQUIRED = 2,164 SF

PARKING SPACE CALCULATION

PROVIDED PARKING SPACES :
TOWNHOUSE IN GARAGE : STANDARD SPACES = 8
TOWNHOUSE IN DRIVEWAY : STANDARD SPACES = 8
TOTAL TOWNHOUSE SPACES PROVIDED : = 16
TOTAL SINGLE FAMILY RESIDENTIAL: = 2

GARBAGE COLLECTION DATA

GARBAGE AND RECYCLABLE MATERIALS SHALL BE STORED IN EACH UNIT'S GARAGE AND COLLECTED IN FRONT OF EACH UNIT

IMPERVIOUS SURFACE CALCULATION

BUILDINGS, DRIVEWAYS, ROADS = 12,300 SF (68% OF SITE AREA)
ALLOWED = 15,200 SF (85% OF SITE AREA)

DENSITY CALCULATION

0.41 ACRES X 24 DU/ACRE = 9.84 UNITS ALLOWED
9 UNITS PROPOSED

RECEIVED
APR 04 2006
201523

R-24 REZONE FOR *ERIC SUNDQUIST*

IN SE1/4, NW1/4, SECTION 6, T.26N., R.4E., W.M.
CITY OF SHORELINE
KING COUNTY, WASHINGTON

SHEET 1 OF 1

REMOVED SUBDIVISION ELEMENT 4/3/06 SMS

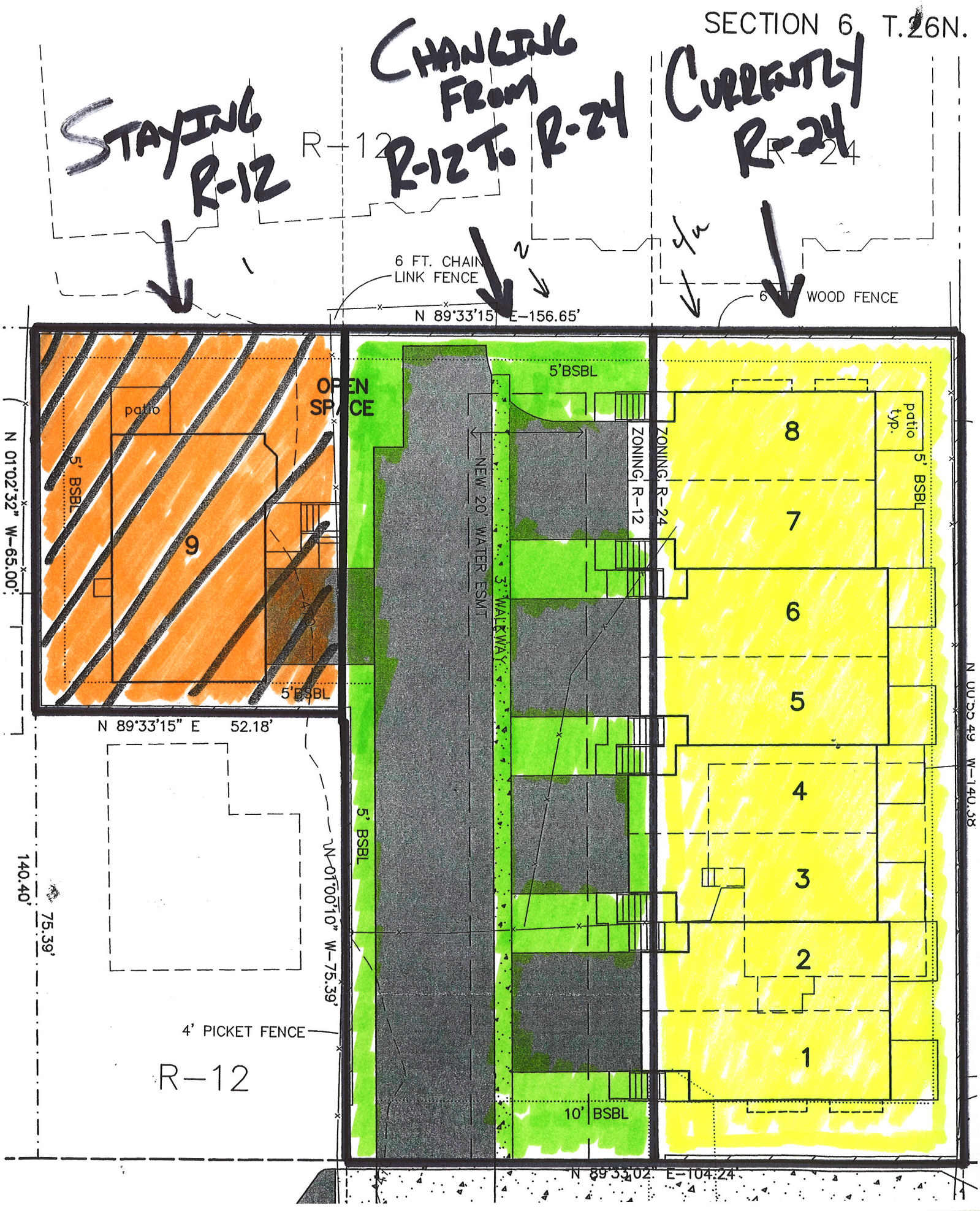
Lovell-Sauerland & Associates, Inc.
Engineers/Surveyors/Planners/Development Consultants
e-mail: info@lsaengineering.com • web: lsaengineering.com
19400 33rd Avenue W., Suite 200 • Lynnwood, WA 98036 • (425)775-1591 • (425)672-7998 fax

DRAWN	CHECKED	DATE	F.B.	SCALE	FILE NO.
JOC,KM	MS	2.10.2006	-	1" = 20'	4738-05

ATTACHMENT C1

ATTACHMENT C2

ATTACHMENT C3


SECTION 6 T.26N.
STAYING R-12
CHANGING FROM R-12 TO R-24
CURRENTLY R-24
R-12
R-24
6 FT. CHAIN LINK FENCE
6 FT. WOOD FENCE
N 89°33'15" E-156.65'
OPEN SPACE
patio
5' BSBL
9
5'BSBL
N 01°02'32" W-65.00'
N 89°33'15" E 52.18'
5'BSBL
NEW 20' WATER ESMT
3' WALKWAY
ZONING R-12
ZONING R-24
8
7
6
5
4
3
2
1
patio typ.
5' BSBL
10' BSBL
N 00°59'49" W-140.38'
N 01°00'10" W-75.39'
140.40'
75.39'
4' PICKET FENCE
R-12
N 89°33'02" E-104.24'

Laurie Hennessey
917 N 200th ST #200
Shoreline, WA 98133
Laureldiane@hotmail.com

July 11, 2006

Steven Szafran
Planning and Development Services
City of Shoreline
17544 Midvale Ave N
Shoreline, WA 98133

Re: Site Specific Rezone
932 N 199th St aka 930 N 199th St
Shoreline, WA 98133

Dear Mr. Szafran,

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I had the opportunity to review the plans at the city office and found that in addition to the row of town homes there is also a single home planned (ten feet from the property line) for that lot. It is my understanding from your department that this home will be included in the condominium complex. This additional home has not been mentioned in the proposal but does exist on the submitted plans. It appears a bit deceitful in their proposal to omit this very important fact. They are not requesting eight town homes, they are requesting nine homes.

The only one to benefit from the increase in density will be Quality Built Homes not the neighbors who will be left with less privacy and increased noise and traffic, and nowhere to park cars. Greed appears to be the motivation of the developer who I'm sure will not be occupying any of the proposed homes. I understand that a single car garage is planned for each unit. However, the latest study dated April 2005 by Dr. Anne Vernez Mouden , Professor, for Department of Urban Design and Planning , University of Washington and Washington State Transportation Center, lists that each home owner averages in Washington State

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Lastly, I would like to thank your department for all the help they gave me in this complicated process of zoning, rezoning, building laws and regulations. They all

took the time to answer all my questions and helped to educate me along the way.

Sincerely,

Laurie Hennessey

Laurie Hennessey
Vice President, Richmond Firs Condominium Association

Cc: Mayor Bob Ransom
Deputy Mayor Maggie Fimia
Shoreline City Council
Keith McGlashan, Rich Gustofson
Cindy Ryu, Janet Way & Ron Hansen

Final Research Report
Agreement T2695, Task 65
Trends in Commuting

TRAVEL INDICATORS AND TRENDS IN WASHINGTON STATE

by
Dr. Anne Vernez Moudon
Professor

Gwen Rousseau
Graduate Research Assistant

D.W. Sohn
Graduate Research Assistant

Department of Urban Design and Planning
University of Washington, Box 355740
Seattle, Washington 98195

Washington State Transportation Center (TRAC)
University of Washington, Box 354802
1107 NE 45th Street, Suite 535
Seattle, Washington 98105-4631

Washington State Department of Transportation Technical Monitor
Elizabeth Robbins
Transportation Planning Manager
Strategic Planning and Programming Division

Prepared for
Washington State Transportation Commission
Department of Transportation
and in cooperation with
U.S. Department of Transportation
Federal Highway Administration

April 2005

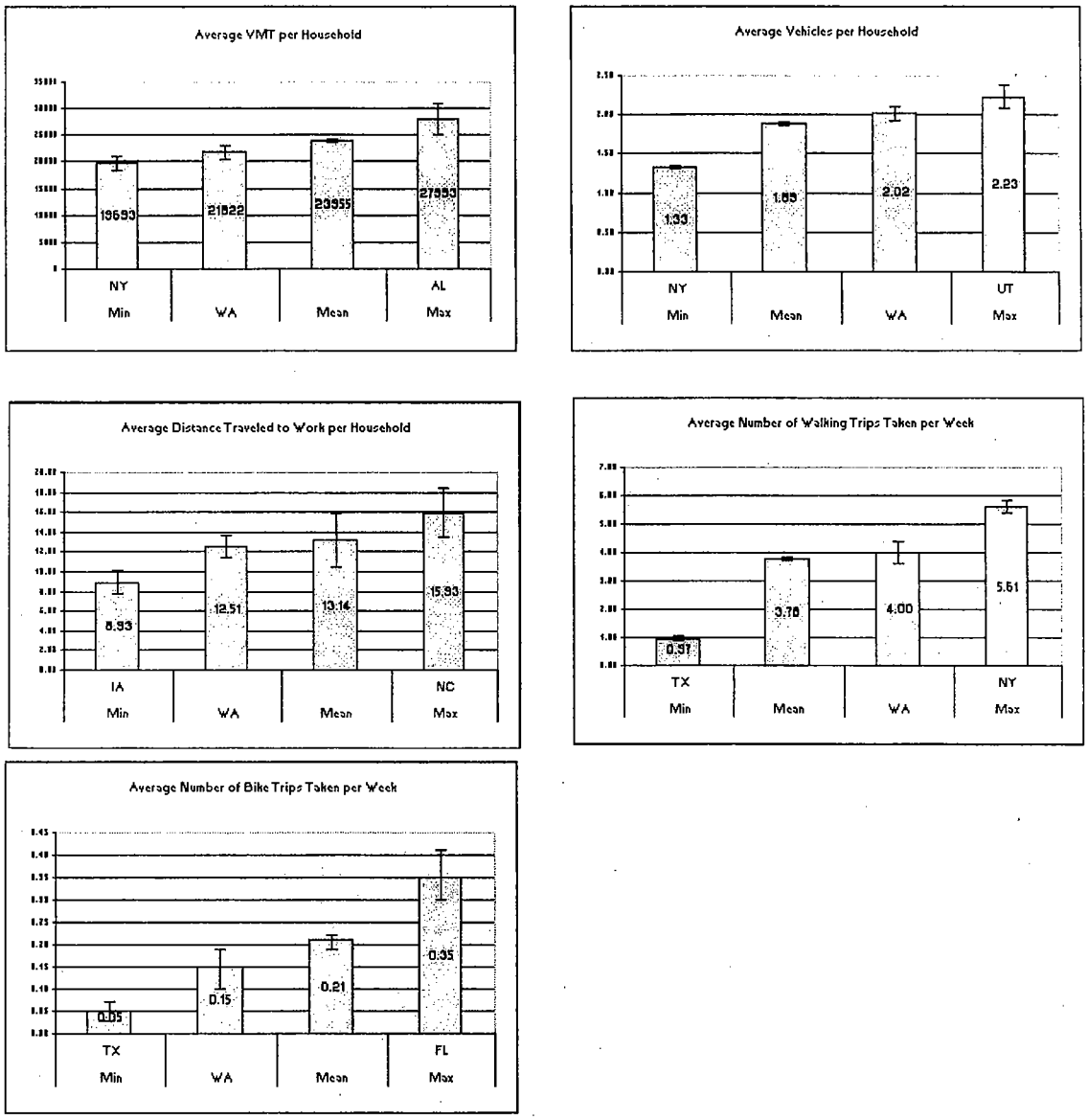

Figure 1: Travel behavior comparisons between Washington State and the nation.

Richmond Firs Home Owners Association

To:
City of Shoreline
Office of Planning and Development.

Re: Project at 932 N 199th St.

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Marlene S. Lem #301

Richmond Firs Home Owner
917 N 200th St.
Shoreline, WA 98133

Richmond Firs Home Owners Association

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Sincerely,

Tammy Smith 4-5-06

Tammy Smith
President, Richmond Firs HOA
917 N 200th St. #101
Shoreline, WA 98133

Richmond Firs Home Owners Association

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917 N 200th St.
Shoreline, WA 98133

Richmond Firs Home Owners Association

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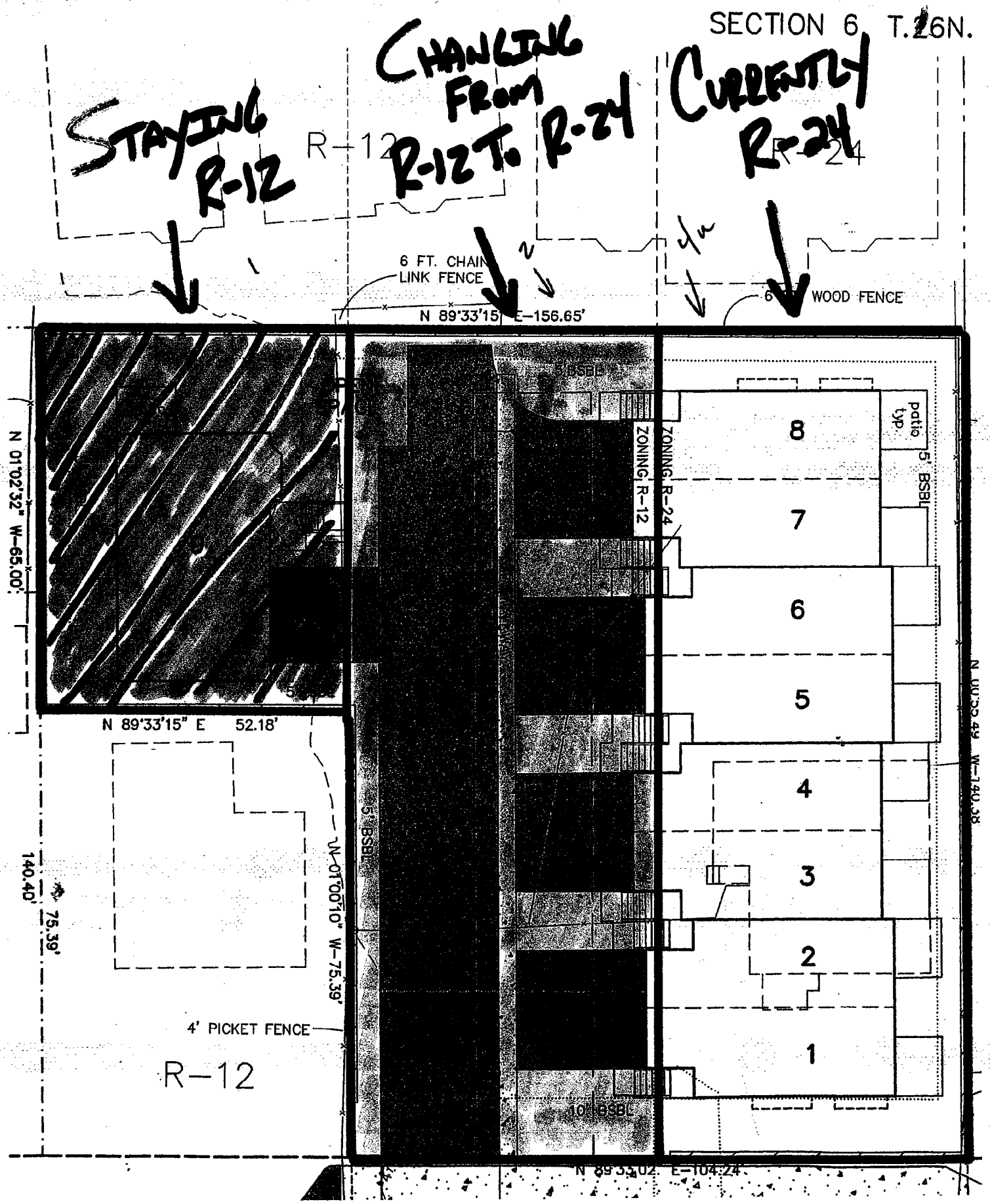
SECTION 6, T.26N.
STAYING R-12
R-12
CHANGING FROM R-12 TO R-24
CURRENTLY R-24
R-24
6 FT. CHAIN LINK FENCE
N 89°33'15" E-156.65'
6' WOOD FENCE
5' BSBL
ZONING R-12
ZONING R-24
patio typ.
5' BSBL
8
7
6
5
4
3
2
1
N 01°02'32" W-65.00'
N 89°33'15" E 52.18'
N 00°33'49" W-140.38'
5' BSBL
N 01°00'10" W-75.39'
140.40'
75.39'
4' PICKET FENCE
R-12
10' BSBL
N 89°33'02" E-104.24'

Laurie Hennessey
917 N 200th ST #200
Shoreline, WA 98133
Laureldiane@hotmail.com

July 11, 2006

Steven Szafran
Planning and Development Services
City of Shoreline
17544 Midvale Ave N
Shoreline, WA 98133

Re: Site Specific Rezone
932 N 199th St aka 930 N 199th St
Shoreline, WA 98133

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Vice President, Richmond Firs Condominium Association

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Keith McGlashan, Rich Gustofson
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Final Research Report
Agreement T2695, Task 65
Trends in Commuting

TRAVEL INDICATORS AND TRENDS IN WASHINGTON STATE

by
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Professor

Gwen Rousseau
Graduate Research Assistant

D.W. Sohn
Graduate Research Assistant

Department of Urban Design and Planning
University of Washington, Box 355740
Seattle, Washington 98195

Washington State Transportation Center (TRAC)
University of Washington, Box 354802
1107 NE 45th Street, Suite 535
Seattle, Washington 98105-4631

Washington State Department of Transportation Technical Monitor
Elizabeth Robbins
Transportation Planning Manager
Strategic Planning and Programming Division

Prepared for
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Department of Transportation
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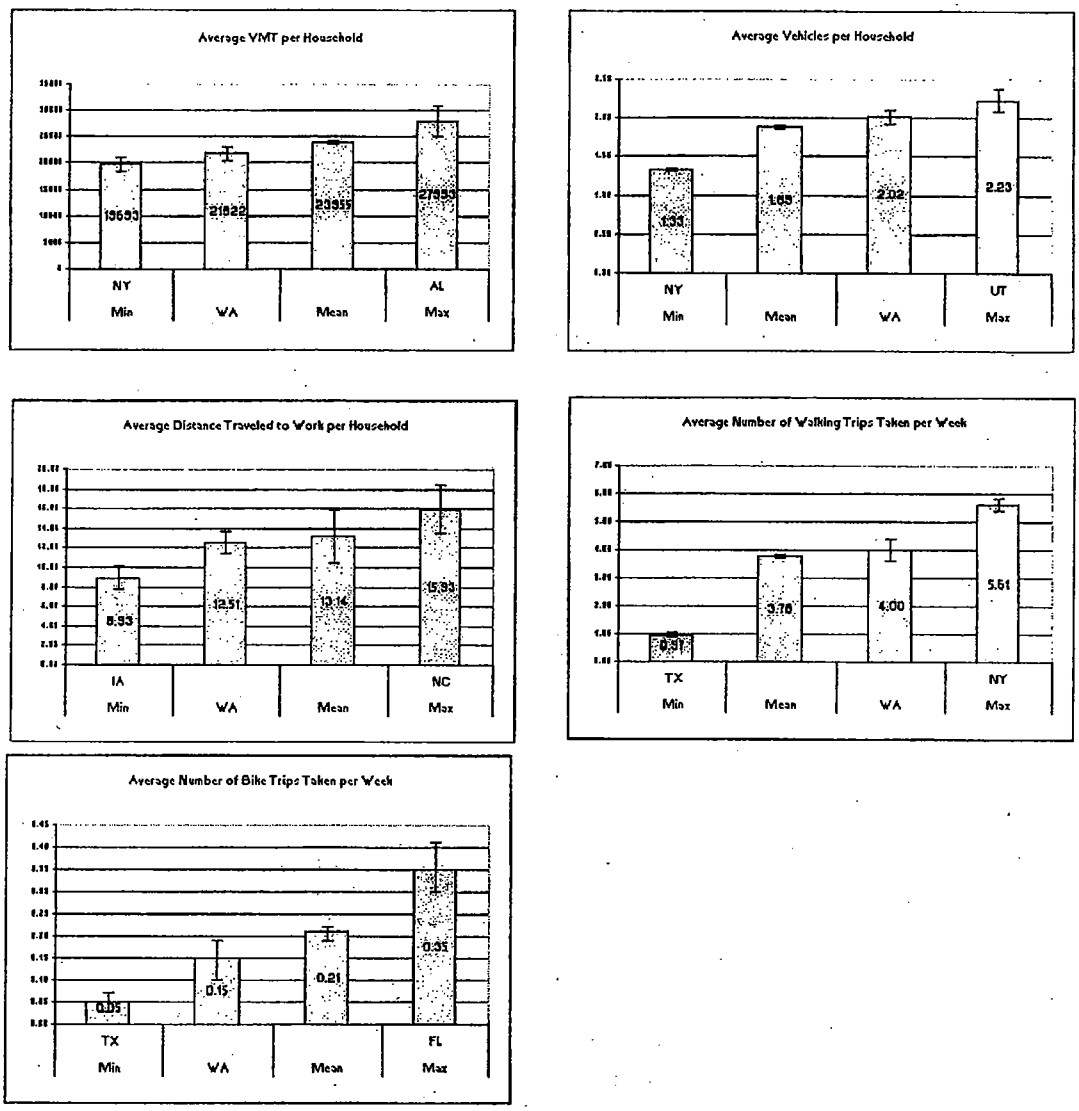
April 2005



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Barbara S. Lam #301

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Tammy Smith
President, Richmond Firs HOA
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Shoreline, WA 98133

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Shoreline, WA 98133

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Richmond Firs Home Owner
917 N 200th St.
Shoreline, WA 98133

DRAFT

These Minutes Subject to September 21st Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

August 3, 2006 7:00 P.M.

Shoreline Conference Center Mt. Rainier Room

COMMISSIONERS PRESENT

Chair Piro
Vice Chair Kuboi
Commissioner Broili
Commissioner Hall
Commissioner Harris
Commissioner McClelland (arrived at 7:04p.m.)
Commissioner Phisuthikul
Commissioner Pyle
Commissioner Wagner

STAFF PRESENT

Joe Tovar, Director, Planning & Development Services
Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Planner II, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Piro called the regular meeting of the Shoreline Planning Commission to order at 7:02 p.m.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Piro, Vice Chair Kuboi, Commissioners Broili, Hall, Harris, Phisuthikul, Pyle and Wagner. Commissioner McClelland arrived at the meeting at 7:04 p.m.

APPROVAL OF AGENDA

The agenda was approved as presented.

DIRECTOR'S REPORT

Mr. Tovar reported that the City Council recently took action on two recommendations the Commission forwarded to them. The Becker rezone was approved by the City Council with no changes. The City Council also adopted the permanent regulations governing the cutting of hazardous trees. The only

significant change was that the reference to recreational trails was taken out of the document. He said he has put out an administrative order explaining how the new ordinance is to be administered.

Chair Piro said there was quite a bit of discussion by the City Council regarding the hazardous tree ordinance, and much of the discussion focused on fees. He recalled that the proposed ordinance included a requirement that the applicant pay for the second peer evaluation, if required. He suggested the Commission keep in mind that the City Council is sensitive to costs. Mr. Tovar said the City Council agreed with the Commission's recommendation to adopt an approved list of arborists, so the City's degree of confidence would be higher than it has been in the past. The City Council agreed to review past history regarding the concept of a critical area stewardship plan at some point in the future.

Mr. Tovar reported that he attended a King County Directors Meeting along with several directors and staff from King and Snohomish Counties. A representative from the Association of Washington Cities was present to talk about the proposed property rights Initiative 933. He noted that public employees are prohibited from advocating for or against the initiative on City time or with City equipment. The same is true for the City Council unless or until they hold a public hearing and adopt a resolution either for or against the initiative. The Council is scheduled to hold a public hearing on I-933 on September 11.

Mr. Tovar reminded the Commission that the American Planning Association would hold their annual conference in Yakima, Washington, in early October. Also, a housing conference will be held in Bellevue in September. He asked the Commissioners to notify staff of their desire to attend one of the two events.

APPROVAL OF MINUTES

Commissioner Pyle referred to the last sentence in the second paragraph from the bottom on Page 13 of the July 6th minutes. He pointed out that Mr. Burt agreed not only to provide a fence across the rear property line; he also agreed to provide a 10-foot landscape barrier. He asked staff to check on this requirement and correct the minutes as necessary. It was noted that Vice Chair Kuboi was excused from the last half of the meeting. The July 6, 2006 minutes were approved as corrected. In addition, the Commission asked staff to submit a summary from the July 20th Retreat for approval at the next regular meeting.

GENERAL PUBLIC COMMENT

There was no one in the audience who expressed a desire to speak during this portion of the meeting.

PUBLIC HEARING ON REZONE FILE #201523 FOR PROPERTY LOCATED AT 930 NORTH 199TH STREET

Chair Piro reviewed the rules and procedures for the public hearing. He also reviewed the Appearance of Fairness Rules and inquired if any Commissioners received comments regarding the subject of the hearing from anyone outside of the hearing. Commissioner Pyle disclosed that while he was employed with the City, a few years ago he spoke with the applicant's agent regarding the subject property. He fielded some basic questions regarding the zoning of the property and the Comprehensive Plan

designation. However, he did not feel the nature of this conversation would bias his ability to make a decision on the current proposal. None of the other Commissioners disclosed ex-parte communications. No one in the audience expressed concern over Commissioner Pyle's conversations.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Szafran advised that the applicant, Eric Sundquist, is proposing to modify the existing zoning category for a portion of an 18,039 square foot parcel located at 932 North 199th Street. The application before the Commission is a request to change an approximately 7,300 square foot portion of the site from R-12 to R-24. He provided pictures to illustrate the exact location of the subject property and what is currently developed on surrounding properties. He advised that the applicant is proposing to construct 8 town homes and 1 single-family home. He explained that six of the town homes and the single-family home have already been noticed and building permits have been issued. Approval of the rezone would allow two more town homes to be built on the site.

Mr. Szafran pointed out that the Comprehensive Plan identifies the entire property as high-density residential, and the zoning designation is split between R-24 and R-12. Both the existing and proposed zoning would be consistent with the designation. He advised that a duplex has been built directly to the south of the subject property, and the area is changing towards higher density. An apartment building to the east is currently being renovated and converted into condominiums.

Mr. Szafran explained that the proposed rezone would be consistent with the Comprehensive Plan because:

- The Comprehensive Plan designation for the subject property is high-density residential, which allows up to an R-48 zoning designation.
- The proposed development would be a natural transition from higher densities to the east and lower densities to the west.
- The project would be consistent with densities expected in the Comprehensive Plan.
- The proposed project would be compatible with the condominiums to the north and the apartment/condos to the east. In addition, the new single-family home would buffer the new town homes from the existing low-density residential to the west.
- Landscaping would be required along the east and north property lines, protecting the privacy of adjacent neighbors.
- The site would be within walking distance to schools, parks, shopping, employment and transit routes.

Mr. Szafran concluded that, for the reasons outlined in the rezone, staff recommends approval of the rezone with no proposed conditions.

Commissioner Pyle asked when the current building permit was issued. Mr. Szafran said it was issued approximately a year ago. He also asked if a parking reduction was granted with the current permit. Mr. Szafran answered no.

Applicant Testimony

Steven Michael Smith, 19400 – 33rd Avenue West, Suite 200, Lynnwood, 98036, Lovell Sauerland and Associates Incorporated, indicated that he was present to represent the applicant. He concurred with the information provided in the staff report. He said he had originally expected to find the most significant compatibility issues on the north and east sides of the property. However, when he visited the site recently, he found there was a row of deciduous trees on the east property line that are almost completely site obscuring in their existing condition. The landscaping proposal would make this property line even more opaque, even though the adjacent property is already developed at a higher density than what the applicant is proposing.

Mr. Smith reminded the Board that the proposal before them is not whether or not town homes would be allowed on the subject property. The question is whether or not Units 7 and 8 could be added to the existing building permit for Units 1 through 6. He suggested that the impacts of these two additional units would be fairly minor. He noted that there are two very large trees immediately north of proposed Unit 8 on the other side of the six-foot fence shown on the site plan. One of these trees covers the entire south facing projection of the building, and even carries over a little. Another large tree is located along the eastern side of the proposed building. Therefore, half of the entire building face or possibly more would be obscured by existing trees. He suggested that the staff and applicant attempt to concentrate the required landscaping treatments into the areas that are not already obscured by the existing large trees.

Mr. Smith pointed out that even if the two additional units were allowed, the project would be back twice as far as the building setback requirement and about the same distance from the property line as the nearest building to the north. It would continue to allow what has already been permitted on the other side of the property line.

Questions by the Commission to Staff

Chair Piro asked if the applicant ever considered a rezone to R-18 instead of R-24. He asked how many units would be allowed on the subject property with an R-24 zone. Mr. Szafran answered that an R-18 zoning designation would allow seven units instead of eight. An R-12 zoning designation would only allow six units.

Commissioner Hall pointed out that the proposal would move the split zoning but not eliminate it. He asked staff to comment on any potential issues that could arise later on as a result of split zoning the property rather than rezoning the entire parcel. Mr. Szafran replied that leaving the R-12 zoning as proposed creates a good buffer between the R-6 and R-24 zoning designation. The applicant is proposing to construct a single-family home on the R-12 zoned portion of the property, and this would not be allowed on the site if it were all zoned R-24.

Vice Chair Kuboi pointed out that the neighborhood meeting was held quite some time ago. He asked if the project that was discussed at the neighborhood meeting was substantially the same as what is now

being proposed. Mr. Szafran answered that the plans that were presented at the neighborhood meeting identified plans for potential future expansion by adding two more town homes.

Vice Chair Kuboi said the staff report indicates that the City has no way of knowing whether a citizen's comment about more than six significant trees being cut was accurate or not. He asked if staff still has no opinion about this matter, even given the aerial photographs that are available. Mr. Szafran said he approved the demolition permit for the single-family home that was on the lot, which included the removal of six significant trees.

Vice Chair Kuboi asked if the proposed layout, design and height of the original six town homes would be acceptable if the rezone were not approved. Mr. Szafran answered that no changes would be required for the developer to construct the six town homes and one single-family home that have already been permitted.

Commissioner McClelland asked who would have ownership of the site where the single-family home is to be constructed. Mr. Smith answered that, although it would be detached, the single-family residential property would be part of the condominium association along with the rest of the units.

Commissioner Pyle pointed out that if the portion of the subject property that is proposed for R-24 zoning was subdivided and rezoned to R-18, the applicant would still be able to build the same number of units. This would allow for a step down zone from R-24 to R-18 to R-12. Mr. Szafran pointed out that building coverage and impervious surface requirements would be different for an R-18 zone.

Public Testimony or Comment

Thomas Mikolic, 910 North 199th Street, said he lives to the west of the subject property. He pointed out that demolition of the site occurred in March of 2005, and now they are talking about changing or selling off part of the land parcels. He asked that the Commission address the timeline that would be allowed for this process. He asked if Mr. Szafran took pictures of the site that is currently under construction to become a Discount Tire Store. This property is located close to the properties that are currently being converted from apartments to condominiums, and the commercial development might have an impact on the traffic in the area. At the request of Commissioner Broili, Mr. Mikolic identified the location of his home on the map. Mr. Mikolic said the applicant assured him that a wood fence would be used to separate the subject property from adjacent properties, yet the drawings identify chain link fences. He would like the fences to be wood.

Laurie Hennessey, 917 North 200th Street, said she owns a condominium that is located to the north of the subject property. She said that before the lot was cleared, she couldn't even see the existing home from her condominium. She pointed out that, to her knowledge, the single-family home was demolished without a permit. She also expressed her concern that additional traffic impacts would also be an issue, since she can't even get out of her driveway during peak hours. She noted that 200th Street is the main road that runs to Aurora Avenue and Interstate 5, and this is likely the road the subject property would use for access. She expressed her concern that the proposed buildings would be located too close (5

feet) to the property line, significantly impacting privacy. Ms. Hennessey said the adjacent property owners were not property notified of the changes proposed for the property, particularly the demolition.

Although Ms. Hennessey didn't receive the original notice for the proposal, Commissioner Wagner asked if she received any subsequent notices. Ms. Hennessey said most of the condominium owners in her development did not receive notice for any of the actions that took place. Their names were not included on the mailing list, even though their properties are some of the closest ones to the new construction. After complaint letters were filed, individuals started receiving notices. Commissioner McClelland pointed out that, frequently with condominium associations, one person receives the notification because that's the only person on the County's records. However, it is possible to get a list of all condominium owners so they can be notified independently of the association. The City should be aware of this problem and take steps to correct it in the future.

Commissioner Hall inquired if an applicant could obtain a permit to clear more than six significant trees. Mr. Szafran answered that this would be allowed with a clearing and grading permit, which would be separate from the demolition permit. In addition to a fee, a clearing and grading permit would require that certain conditions and guidelines be met.

Tammy Smith, 917 North 200th Street, said she lives in the Richmond Firs Condominiums, located north of the rezone site. She asked when the demolition permit was issued. She expressed her concern that the property was cleared without notifying the adjacent property owners. She pointed out that the apartments down below were recently converted to condominiums. While they used to be occupied by single-individuals, many are now occupied by married couples with two cars. This creates more traffic on 200th Street. These individuals also use her condominium complex as a turnaround place. Ms. Smith pointed out that while there used to be trees to separate the subject property from her condominium, they have been removed. Their privacy has been destroyed and she is opposed to allowing the developer to construct eight condominiums and one residential unit on the subject property.

Commissioner Hall asked how many units are located in the Richmond Firs Condominium Complex. Ms. Smith answered that there are 11 town homes.

Commissioner Pyle asked what happens to the trees that separate her property from the subject property during the winter months. Ms. Smith answered that the trees located to the south of her complex are evergreen trees, and the trees along the back of her property line give privacy for the condominiums.

Commissioner Hall inquired if notice to surrounding property owners is required for a demolition permit. Mr. Szafran answered no.

Presentation of Final Staff Recommendation

Mr. Szafran said staff's final recommendation is that the Commission recommend approval of the rezone to R-24 as presented.

Final Questions by the Commission and Commission Deliberation

Vice Chair Kuboi requested clarification regarding the distance of the two proposed new units from the property lines. Mr. Szafran said it appears that the buildings would be set back 10 feet from the rear property line with some pop outs of approximately two feet. Mr. Cohn reminded the Commission that no building permit has been submitted to date and no exact design has been approved by the City.

Commissioner Phisuthikul asked about the landscape requirements for the north and east property lines. Mr. Szafran advised that a 5-foot landscape buffer would be required in these locations, and one 1½ - inch caliper trees would be required to be placed every 25 feet. Shrubs from 5 gallon containers would spaced from one to four feet apart. Ground cover would also be required.

Chair Piro asked the applicant to comment on the type of fence that would be used; chain link versus wood. Mr. Smith clarified that the chain link fences shown are the plan are existing fences. These would be replaced with wood fences.

Chair Piro asked for clarification about when the demolition permit was issued. Mr. Szafran responded that a demolition permit was issued on June 1, 2005 to remove the existing single-family home. It was finalized by the inspector on November 20, 2005.

Commissioner McClelland pointed out that, in addition to obtaining a demolition permit, the applicant cut down all of the trees without a permit to remove significant trees. Mr. Szafran emphasized that in the demolition permit application, the applicant noted that six significant trees would be removed. Therefore, the demolition permit authorized six trees to be cut. Commissioner McClelland clarified that the applicant did not have approval to cut down any more than six significant trees, yet property owners in the area have indicated that more than six significant trees were removed. Commissioner McClelland inquired if the City received any contact from citizens regarding the demolition. Mr. Szafran said the City's tracking system does not note any complaints regarding this issue.

Commissioner Harris asked staff to review the requirements for a demolition permit such as the mapping of significant trees, etc. Mr. Szafran said there is no protocol to actually note significant trees on a plan as part of a demolition permit application. Commissioner Broili asked how the City would know how many significant trees exist on a subject property. Mr. Szafran said staff typically inspects a site prior to demolition. Commissioner Broili pointed out that an old photograph illustrates the vegetation that existed prior to clearing, and he sees at least six trees that look significant. This raises a question in his mind about how many significant trees actually existed on the site prior to demolition. He suggested that, for future applications, the City should figure out a method for documenting significant trees. Mr. Tovar agreed and suggested that this issue could be addressed through an administrative order to require mapping of this information as part of a demolition permit application.

Commissioner Pyle pointed out that any property owner in Shorelines is allowed to remove up to six significant trees in a 36-month period without a permit. Therefore, the applicant would not have needed a permit to remove six trees. Commissioner Hall further noted that a 2002 aerial photograph from the King County website shows two or three trees that are not present in the pre-demolition permit

photograph. This suggests that over a 4-year period, more than six trees have been removed. But there is no indication to him that more than six significant trees were removed as part of the demolition work.

Vice Chair Kuboi asked what the functional purpose of the landscape buffer on the north end of the property would be. Mr. Szafran said the function of the buffer would be to provide a screen between the two properties. Vice Chair Kuboi asked if there are particular plant selections that would accomplish this goal better. Mr. Szafran said the City does not have an approved plant list, but the code calls out a mixture of evergreen and non-evergreen types of species at specific heights and spacing. Vice Chair Kuboi asked if the applicant would be required to submit a list of materials that would be used for their landscape buffers. Mr. Szafran said this information would be submitted to the City as part of the building permit application.

COMMISSIONER HARRIS MOVED TO RECOMMEND APPROVAL OF STAFF'S RECOMMENDAITON TO REZONE A PORTION OF THE PROPERTY FROM R-12 TO R-24. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Harris said that, upon reviewing the maps, the rezone proposal appears to conform to the surrounding zoning and provides a natural transition between the higher-density and single-family residential zones. An R-24 zoning designation would be the same as what already exists to the north. A building permit has already been approved for six units on the site, and adding two more units would not generate significantly more traffic on the existing streets. He pointed out that a Burger King Restaurant existed where the new Discount Tire Store is currently being located, and he suspects traffic from both businesses would be similar.

Commissioner Broili agreed with Commissioner Harris that the proposal would provide a good transition between the R-24 and R-12 zoning designations. However, he encouraged the applicant to plant larger, more mature trees along the northern fence line to give more immediate visual buffer to the adjacent property owners. Commissioner McClelland also encouraged the applicant to compensate for the loss of trees and privacy as a thoughtful gesture towards the adjacent property owners.

Vice Chair Kuboi said he would support the proposal as presented since it would allow two additional families to live in the City of Shoreline. The proposal of two additional units would also presumably make the other homes that are developed on the site a little more affordable. He pointed out that the applicant also built the Meridian Cottages. There was quite a back lash regarding color selection, and a lot of good will was lost. He encouraged the developer to consider the concerns of the adjacent property owners and create an adequate buffer on the north side of the property line.

Closure of the Public Hearing

COMMISSIONER BROILI MOVED TO CLOSE THE PUBLIC HEARING. VICE CHAIR KUBOI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Vote by Commission to Recommend Approval, Denial or Modification

THE MOTION CARRIED 8-1, WITH COMMISSIONER PYLE VOTING IN OPPOSITION.

PUBLIC HEARING ON CODE AMENDMENT PACKAGE #1

Chair Piro reviewed the rules and procedures, as well as the proposed agenda for the public hearing. It was noted that there was no one in the audience to participate in the public hearing.

Mr. Szafran referred the Commission to the first set of 2006 Development Code Amendments. The Commission and staff reviewed each of the proposed amendments as follows:

- **Amendment 1** – This amendment pertains to Site Development Permits. Staff added the word "redevelop" to clarify that a Site Development Permit may be needed when an applicant redevelops a site. A Site Development Permit allows clearing, grading, and installation of utilities exclusive of any other permits applied.

  COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 1 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER HARRIS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **Amendment 2** – This amendment pertains to pre-application meetings. Language would be added to inform an applicant that additional permits may be needed and the time and procedure for obtaining those permits.

  COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 2 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **Amendment 3** – This amendment proposes a new code section explaining the purpose, general requirements and review criteria of a Site Development Permit.

  COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 3 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER HARRIS SECONDED THE MOTION.

- **Amendment 4** – This amendment would delete condominiums from the binding site plan requirement. Binding site plans are a division of land for commercial and industrial lands. A condominium is not a division of land but a form of ownership. Therefore, it should not be considered as such.

Commissioner Hall pointed out that the City might not even know if a property would be developed as condominiums at the time a proposal is submitted. Mr. Cohn agreed that a developer could construct an apartment complex and then convert the units to condominiums a few years later. Commissioner Hall pointed out that the Commission could have required a binding site plan for the previous application as a way of ensuring a 10-foot setback on the north side. Mr. Tovar agreed that the Commission could have imposed conditions for the rezone permit they just reviewed. Commissioner Hall summarized that the Commission could address important issues by placing conditions on a rezone without requiring a binding site plan. Mr. Tovar agreed.

Commissioner Phisuthikul noted that the way the amendment is written implies that the binding site plan requirement would only be applied to commercial or industrial lands. He asked if this would prevent the City from also requiring binding site plans for mixed-use or residential developments. He expressed his concern that the proposed language implies that no residential development would be allowed within the binding site plans. Mr. Tovar pointed out that the City's site development requirements would allow the City to impose binding conditions on mixed-use developments. He suggested that perhaps part of the Commission's work on the Comprehensive Housing Strategies could include a discussion on how the City could ensure their ability to impose conditions on a site-by-site basis regardless of what the development permit might be.

COMMISSIONER HALL MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 4 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER McCLELLAND SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **Amendment 5** – This amendment would modify the Density and Dimension Table 1 to allow modified building coverage and impervious surface calculations for zero lot line developments. The setback variations would only apply to internal lot lines, and the overall site plan must comply with setbacks, building coverage and impervious surface limitation.

COMMISSIONER PYLE MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 5 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER HARRIS SECONDED THE MOTION.

Commissioner Hall pointed out that this amendment would grant additional flexibility to allow developers to arrange the open space and impervious surface in a more reasonable way on the site to create a better community. Chair Piro agreed that this additional flexibility would be appropriate.

Commissioner Pyle expressed his concern that there is already a provision in the code that allows for setback variations for external lot lines with regards to clusters of significant trees and vegetation. The proposed amendment could inhibit the movement of a building or cluster of buildings in a zero lot line development out of the way of a cluster of significant trees because a developer would not be allowed to vary the external lot lines at all. Mr. Tovar suggested that if the intent is to have the old language continue to operate, the Commission could direct staff to craft language to reconcile this concern.

The Commission discussed whether or not it would be appropriate to defer their decision on Amendment 5 until a future meeting. Commissioner Harris said he would be in favor of moving forward with the motion to approve. Commissioner Hall agreed. He pointed out that the footnote in the current code would make it appear that any of the standards for the internal or external lot lines in zero lot line developments could be varied. He clarified that the purpose of the proposed amendment is to allow a zero lot line development to modify their internal lot lines, without creating the ability for them to modify their rear, front or side yard setbacks. He said he would support the proposed amendment as proposed.

THE MOTION CARRIED 5 TO 3, WITH COMMISSIONERS PYLE, PIRO AND PHISUTHIKUL VOTING IN OPPOSITION AND COMMISSIONERS HARRIS, HALL, McCLELLAND, WAGNER AND KUBOI VOTING IN FAVOR. COMMISSIONER BROILI ABSTAINED FROM VOTING ON THE ISSUE.

- **Amendment 6** – This amendment would delete the requirement that residential driveways comply with setback standards.

COMMISSIONER PHISUTHIKUL MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 6 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER PYLE SECONDED THE MOTION.

Commissioner Hall pointed out that the tradeoff is between suburban form and urban form. In a suburban form each house would have its own curb cut and driveway, which can result in less efficient use of on-street parking space and make is more difficult to accomplish higher densities with short plats, etc. He expressed his belief that the proposed amendment is consistent with the fact that the City is going to continue to see an increase in population and density. The proposed amendment would allow two houses to be built side by side, with adjacent driveways and only one curb cut, and this could create a more pedestrian friendly form.

Commissioner Pyle noted that if proposed Amendment 6 is approved, the City must also update the Engineering Development Guide to reflect the code change. Mr. Szafran agreed.

THE MOTION WAS UNANIMOUSLY APPROVED.

- **Amendment 7** – This amendment would revise and clarify the language for the Engineering and Utility Standards section. No new content would be added to the section, but the amendment reorders and clarifies the section making it easier to follow and understanding.

COMMISSIONER WAGNER MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 7 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. COMMISSIONER PYLE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

- **Amendment 8** – This amendment would allow private streets to be located within easements. By allowing private streets within easements, lot square footage would not be taken out of the total lot size, making it easier to meet minimum lot sizes.

  Commissioner Pyle asked if properties would still be required to comply with impervious surface standards. Mr. Szafran answered affirmatively. The amount of easement that would be considered a private street would also be considered impervious surface for that lot. While the easement would still exist, the private street would not be dedicated as a separate tract. Mr. Tovar clarified that the easement underneath the road would belong to the property owner.

  COMMISSIONER McCLELLAND MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 8 BASED ON FINDINGS CONSISTENT WITH THE STAFF REPORT. VICE CHAIR KUBOI SECONDED THE MOTION.

  There was still no one present in the audience to participate in the public hearing. Therefore, Chair Piro closed the public hearing.

  THE MOTION CARRIED UNANIMOUSLY.

REPORTS OF COMMITTEES AND COMMISSIONERS

Chair Piro reported that earlier in the day he attended a meeting with King County Planning Directors to discuss the Puget Sound Regional Council's proposed update of the Vision 2020 Plan. The formal public comment period ended on July 31st. They received about 80 comment letters; 23 were from municipalities and all four counties responded, as well. The Puget Sound Regional Council staff is scheduled to provide a presentation to the Shoreline City Council on August 21st ,and interested Planning Commissioners are invited to attend.

Commissioner Hall announced that the City Council recently selected the site for the new City Hall.

UNFINISHED BUSINESS

Retreat Follow-Up

Mr. Cohn referred the Commission to the draft 2007-2008 Work Plan that was prepared by staff to outline the work items identified by the Commission at their retreat. He recalled that the Commission specifically indicated their desire to work on the following three items: sub area plans for special study areas, Town Center Plan, and a Comprehensive Housing Strategy.

Mr. Cohn advised that staff would present a final work plan for the Comprehensive Housing Strategies Program to the City Council early in September. They hope to obtain approval from the City Council to move forward with the formation of a citizen's advisory committee in October. It is staff's expectation that the citizen's advisory committee would include Planning Commission representation. Staff

anticipates that it could take up to a year to complete the plan, and then implementation would have to be considered during the first quarter of 2008.

Mr. Cohn said that the Town Center Plan would impact the properties between 170th and 180th Streets on both sides of Aurora Avenue. Staff anticipates this planning process would start very soon and continue on for about a year. Implementation would likely take place during the first quarter of 2008.

Mr. Tovar explained that staff's rationale for sequencing of the work items was related to costs for staff time and potential consultant contracts. Staff intends to complete the Comprehensive Housing Strategies project with in-house staff and just a small amount of consultant services for survey work. The Town Center Plan would also be done largely in-house, but with the some outside help. He reported that the Planning and Development Services staff have met internally with staff from the Public Works Department, Parks Department, etc. to discuss the major capital projects that are taking place within the town center area (City Hall Campus, Interurban Trail, and Aurora Avenue Capital Improvement Project).

Chair Piro said he understands that work is in progress to design the second and third phases of the Aurora Avenue Project, and these plans might be finished before the Town Center Plan. He suggested that some treatment of Midvale Avenue be included into the Aurora Avenue Plans, even if that means doing the work ahead of the Town Center Plan. Mr. Cohn agreed that it is important to consider the future configuration of Midvale Avenue and noted that the Town Center Plan would include Midvale Avenue, perhaps as far back as Stone Avenue on one side and Linden Avenue on the other. Chair Piro suggested that there might be grant funding for the Aurora Avenue Project that could be used to address Midvale Avenue, too.

Commissioner Broili expressed his concern that development is happening all the time, so it is important for the City to get their plans in place as soon as possible. If not, future development could end up setting the pace for what the City will be able to do in the future.

Commissioner Pyle noted that the Commission expressed an equal desire to work on sub-area planning for special study areas and the Town Center Plan, yet the sub-area plans have been postponed until much later on the Commission's work program to accommodate the Commission's work on the Comprehensive Housing Strategies. He expressed his belief that completing the Comprehensive Housing Strategies before the special study areas is inappropriate. If the City does not know the density and capacity of certain zones and areas in the City, it would be impossible to properly develop a unilateral, citywide housing strategy.

Commissioner Phisuthikul agreed with Commissioner Broili's concerns about postponing plans for the special study areas and the town center. He recalled that the City developed a Central Shoreline Sub-Area Plan after much work by the community, staff, Commission, etc. However, because this plan was only partially adopted into the Comprehensive Plan, it could not be used as a guideline for future development. As a result, new development has occurred that is exactly opposite of what was called out in the plan.

Chair Piro noted that the Comprehensive Housing Strategy work was already in progress before the Commission's retreat. Mr. Tovar said the staff is interested in getting to work on the sub area plans for special study areas as soon as possible. However, it is important to note that the City Council directed the Commission to consider a Comprehensive Housing Strategy at the time the cottage housing regulations were eliminated. The City Council has also expressed a desire for the Commission to consider a Town Center Plan. He also clarified that because the code was never updated to implement the Central Shoreline Sub Area Plan, there was nothing in place to require or prohibit development that was inconsistent with the plan. He noted that, at this time, the Central Shoreline Sub Area Plan is only included in the Comprehensive Plan as a report. It is not a binding policy and does not provide binding direction to any code or permit. He said his hope is that the Town Center Plan would have a lot of community buy in and reflect the current market so the City Council could adopt it as code. Mr. Cohn pointed out that the market has changed significantly since the Central Shoreline Sub Area Plan was adopted, so changes are necessary.

Commissioner Hall said his recollection is that the City Council adopted the policy portion of the Central Shoreline Sub Area Plan, but not the development regulations. He asked staff to review the Commission's previous deliberations on this issue. Mr. Tovar agreed to research the Commission's previous discussions, as well as the record of what the City Council actually adopted, and report back to the Commission on the status of the Central Shoreline Sub Area Plan.

Vice Chair Kuboi pointed out that the work program includes very little discretionary time for the Commission to consider other issues they feel are important. He asked staff to provide more detail on the work program to identify where the smaller items might fit in. Commissioner Broili pointed out that a number of items on the parking lot list would be discussed as part of larger issues that are already scheduled on the agenda.

Commissioner McClelland was excused from the meeting at 9:20 p.m.

Commissioner Pyle expressed his belief that special study areas would continue to get pushed back on the Commission's agenda. Therefore, he suggested that an interim set of controls be adopted or a moratorium be established on rezones and Comprehensive Plan amendments for special study areas. Mr. Tovar suggested the Commission discuss Commissioner Pyle's recommendation with the City Council at the next joint meeting. Commissioner Pyle expressed his concern that he lives in a special study area that is a prime candidate for redevelopment by 2008, and he has concerns about the significant impact future development could have unless the City takes action soon. Commissioner Hall suggested that Commissioner Pyle's concern is more related to the Comprehensive Plan designation and not the other elements that would typically be included in a sub area plan. He suggested that he could bring in maps of the area and colored markers to a future meeting so the Commission could mark up the map and introduce a Comprehensive Plan amendment. He concluded that the Commission has enough resources to complete this task utilizing very little staff time.

Commissioner Broili asked about the City's timeline for adopting the King County Stormwater Management Plan. Mr. Tovar answered that staff was hoping to have this document adopted by the third quarter of 2007, but that was before key engineering staff positions were vacated. Commissioner Broili

pointed out that efforts to create an environmentally sustainable community could be directly tied to the City's adoption of the stormwater management plan. Mr. Tovar suggested that the Commission discuss these types of issues with the Parks Department at the upcoming joint meeting.

At the request of the Commission, Mr. Cohn provided a status report of the Fircrest property. He explained that the City must wait for the State to take action, and preliminary indications are that the State has no plans to do anything with the property unless the Legislature or the Governor directs them to. Commissioner Hall expressed his concern that the State could choose to surplus the land to generate revenue. That means a developer could purchase the property and develop it at its underlying zoning with no master planning. He encouraged the staff to bring this issue up to the City Council with a request that they ask the State Representatives not to consider surplussing the property until they have entered into an agreement with the City of Shoreline to require some level of planning or a Comprehensive Plan Land Use change has been adopted. He pointed out that a master plan for the site would be in the State's best interest, too. Mr. Tovar added that the City has the authority to legislatively change the zoning for this property. However, the new zone would have to allow State run facilities as a permitted use.

Mr. Tovar asked the Commission to share their comments about the concept of meeting twice a year in a joint meeting with the City Council. The Commission agreed that two-meetings a year would be adequate. Chair Piro emphasized that Commissioners also have the opportunity to attend any City Council Meeting to testify on their own behalf.

Mr. Tovar provided a proposed agenda for the Commission's joint meeting with the Parks Board on September 7th. He asked the Commission to provide feedback so the agenda could be finalized in the near future. Mr. Tovar explained that the Council of Neighborhoods typically meets the first Wednesday of each month, and staff has approached them about the possibility of canceling their September 6th meeting so they could sit in the audience at the joint Planning Commission/Parks Board meeting.

Mr. Tovar noted that the agenda for the meeting would include a review of the Cascade Agenda and an update on the 10 City Council Goals. The meeting would provide an opportunity for the Parks Board, the Commission, and the staff to have a dialogue and exchange ideas. While the public would be welcome to attend, he does not anticipate an opportunity for public comments. Chair Piro suggested that the first priority should be to work on building a relationship between the two groups, and perhaps it would be appropriate at a subsequent joint meeting to allow public comments from neighborhood groups, etc. The Commission agreed that they would like the meeting to be set up as a conversation between the two bodies. Commissioner Hall suggested that a question and answer period be built into the time allotment for the Cascade Agenda Presentation. For the remainder of the agenda, he would prefer that the Commission and Board speak primarily with each other. The remainder of the Commission agreed.

Commissioner Phisuthikul inquired if a discussion regarding the Urban Forest Management Plan would be part of the joint meeting agenda. Mr. Tovar explained that one of the City Council's goals is to develop an environmentally sustainable community, and one element of this would be the development of a Forest Management Plan. It would be appropriate for the Parks Board and Parks Department Staff

to explain what they have in mind for this effort. Commissioner Broili offered to work as a liaison between the Parks Board and the Planning Commission regarding this issue.

Vice Chair Kuboi expressed his concern that the proposed agenda does not allow enough time for the Board and Commission to talk together. He said that rather than reports and presentations, he would prefer to have more time for the two groups to interact with each other. Mr. Tovar suggested the meeting start at 6:00 p.m. as a dinner meeting. The Commission agreed that a dinner meeting would be appropriate. They also agreed that the Cascade Agenda presentation should be limited to only 30 minutes. Staff agreed to provide meeting materials prior to September 7th.

NEW BUSINESS

There was no new business scheduled on the agenda.

ANNOUNCEMENTS

Commissioner Phisuthikul announced that as of 3 p.m. today, he became a United States citizen.

AGENDA FOR NEXT MEETING

The Commissioners had no additional comments to make regarding the agenda for the next meeting.

ADJOURNMENT

The meeting was adjourned at 9:55 p.m.

Rocky Piro
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

Council Meeting Date: September 11, 2006 **Agenda Item:** 9(b)

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Shoreline Sister Cities
DEPARTMENT:	City Manager's Office
PRESENTED BY:	Scott Passey, City Clerk

PROBLEM/ISSUE STATEMENT:

On September 5 the City Council heard a report from the Sister City Association and discussed the invitation to send a delegation to Boryeong in November. The issues are: a) Whether to accept the invitation and send a City of Shoreline delegation, and b) whether to pay the travel expenses for the Mayor.

RECOMMENDATION

It is recommended that if the Council accepts the invitation, that the Council authorize payment of travel for the Mayor to attend.

Approved By: City Manager ___ City Attorney ___

Attachment

Council Meeting Date: September 5, 2006 **Agenda Item: 6(b)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Shoreline Sister Cities Association Update
DEPARTMENT:	CMO/City Clerk
PRESENTED BY:	Scott Passey, City Clerk

PROBLEM/ISSUE STATEMENT:

The Shoreline Sister Cities Association (SSCA) is a community-based organization that was established as a means to provide opportunities for citizens that live or work in Shoreline who wish to participate in social, cultural, educational, governmental, environmental, and economic exchanges. Since its inception in 2002, the SSCA has engaged in several activities in furtherance of the goals of the organization. In 2002, the City of Shoreline formally recognized the City of Boryeong, South Korea, as its first designated sister city. Since that time, the SSCA and the City of Shoreline have been actively engaged in a number of cultural and educational exchanges to help strengthen and solidify the sister city relationship with Boryeong.

Through the SSCA, it has come to the City's attention that Boryeong officials have extended an offer to host a visiting delegation this fall. It is expected that this delegation would be composed of SSCA members as well as City officials. The SSCA recommends that the City formally accept the invitation by letter and expend the necessary resources to participate in the visit. Resolution No. 194 (Attachment A) and Resolution No. 213 (Attachments B) outline the Sister Cities Relationship Policy and clarify policies related to City involvement and expenditure of funds.

FINANCIAL IMPACT:

The funding level for the sister cities program is part of the annual budget process. $7,000 has been appropriated in the 2006 budget for this purpose. According to the Sister Cities Policy, travel for elected officials at City expense is subject to prior City Council approval; staff travel is subject to prior City Manager approval. If the Council decides to accept Boryeong's invitation and expend City funds for this purpose, the travel costs for one elected official and one staff member, combined with costs for hosting one dinner and providing a gift, are estimated at $5,000-$6,000.

RECOMMENDATION

Staff recommends that the City Council review the proposal, provide direction, and authorize that it be brought forward for action on the September 11 consent calendar.

Approved By: City Manager ____ City Attorney ___

ATTACHMENTS

Attachment A: Resolution No. 194
Attachment B: Resolution No. 213

ORIGINAL

RESOLUTION NO. 194

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING A SISTER CITY RELATIONSHIP POLICY

WHEREAS, the City Council adopted Resolution No. 53 encouraging the creation of a Sister Cities Asociation; and

WHEREAS, the Shoreline Sister Cities Association has recently been incorporated as a non-profit association by the State of Washington; and

WHEREAS, the City Council now wishes to establish a Sister City Relationship Policy;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON AS FOLLOWS:

Section 1. The Sister Cities Relationship Policy attached hereto as Exhibit A is hereby adopted.

ADOPTED BY THE CITY COUNCIL ON OCTOBER 14, 2002.

Mayor Scott Jepsen

ATTEST:

Sharon Mattioli, CMC
City Clerk

ORIGINAL

Exhibit A

Sister City Relationship Policy

OBJECTIVES

The City of Shoreline in entering into sister city relationships seeks international relationships which will enhance its citizens' understanding of other cultures, and/or which will allow the City to engage in productive and mutually beneficial exchanges of new technology, techniques, and solutions to problems with cities of comparable development. The City will support and encourage the establishment of sister city affiliations which serve the following objectives:

- To provide opportunities for citizens that live or work in Shoreline who wish to participate in social, cultural, educational, governmental, environmental, and economic exchanges.
- To provide citizens arts and cultural heritage exchanges
- To enhance citizens' economic well-being by developing opportunities for trade and tourism.
- To provide opportunities for citizens that live or work in Shoreline to work on international projects.
- To share expertise in addressing problems.
- To promote tourism and develop trade and economic ties in Shoreline with other parts of the world.
- To increase knowledge of and sensitivity to diversity here and abroad.

SELECTION GUIDELINES

The following is a composite of different factors for consideration when selecting a sister city. These factors are recognized as subjective in nature and are to be used as general tools to assist in the selection process. The awareness that a desire to learn from and share experiences with another city can, in some cases, balance the lack of similar characteristics with a potential sister city.

Strong Shoreline community support.
Existence of a city organization or city sanctioned organization able to work closely with the Shoreline Sister City Association

Similarity to the City of Shoreline in terms of:

- size, in relation to the region, e.g., the City of Shoreline is approximately 11 square miles; Seattle is approximately 84 square miles. King County is approximately 2126 square miles.
- population, in relation to the region, e.g., the City of Shoreline's population is 53020. Seattle has a population of 563,374.
- the proposed city has infrastructure challenges presented by a similar geographic condition, e.g., hilly terrain, surrounded by mountains and arms of the sea; density; infrastructure in place to allow accessibility to and from city.
- the proposed city has a similar role in the region, e.g., a key player in regional, economic and political activities.

A history of informal relations between the two communities
Common ethnic or cultural heritage with residents of Shoreline
An interest in sharing views and information on issues of governance and citizen participation in public affairs
An interest in developing business, tourism and economic ties in Shoreline

An interest in sharing views and information on issues of governance and citizen/governmental relationships.

Recognized as a municipal government or similar political subdivision of an independent state of the world with which the United States has diplomatic relations at the time the selection is considered.

SELECTION PROCESS

In order to ensure that sister city affiliations reflect the community's interests, requests for the City for sister city affiliations shall be evaluated as follows:

Affiliation Request requested by Another City to Shoreline

- If the City receives a request for a potential sister city relationship from another city, the matter will be referred to the Shoreline Sister Cities Association for review and a recommendation.
- The Shoreline Sister Cities Association will review the request and make a recommendation to the City.
- The City will review requests for establishing relationships, with the City Council making a formal decision on whether or not to proceed.

Affiliation Request initiated by Shoreline to Another City

- Requests from residents wanting the City to consider initiating a sister city relationship with another city will be forwarded to the Shoreline Sister Cities Association for review.

- The Shoreline Sister Cities Association will review and recommend action to the City. The City Council will consider the request and take action accordingly.

- If the Council's consensus support is to proceed, the Mayor will send a letter on behalf of the community and City Council, inviting the other city to work with the Shoreline Sister Cities Association to establish a relationship.

- If the other city responds favorably, the Shoreline Sister Cities Association will make a recommendation to the City for formal consideration of the relationship by the City Council.

C. Optional Friendship City Status:

- **The City Council can designate a city as a Friendship City for the first two years. The designation of Friendship City means that there is no formal structure to the city-to-city relationship and there are no formal obligations between the cities. The two-year trial period will give both cities the opportunity to continue to gauge compatibility and to determine if there is a long-term commitment on the parts of both cities to enter into a formalized sister city relationship.**
- **A "Memorandum of Understanding" between the City of Shoreline and the Friendship City will be prepared agreeing to a plan of action for the two-year trial time period. If needed, an extension of up to an additional two years may be granted by the City Council.**
- **A "Memorandum of Understanding" between the Shoreline Sister Cities Association and the City of Shoreline agreeing to a plan of action of how the non-profit organization will support the friendship city relationship being established within the City's existing resources, staffing and authority.**

- Following the two-year Optional Friendship City period, the Shoreline Sister Cities Association will make its final recommendation to the City prior to final decision regarding an on-going formal sister city relationship by the City Council. This recommendation will be based on the accomplishments of the Shoreline Sister Cities Association related to the plan of action outlined in the memorandum of understanding and the accomplishments of the plan of action between the Friendship City.

D. City Involvement

The City supports the Shoreline Sister Cities Association through largely indirect means, and does not intend to provide on-going funding for operations. In general, the City will support the Association's efforts through combined promotion and publicity efforts, assisting with scheduling Council and Staff attendance at local exchanges, visits by delegations and providing meeting room space for Association business. The City may also work with the Association to provide opportunities for exchanges with recreational programming and special events as resources allow. The City may support the Association as a dues paying member.

E. Annual Review of Sister City Relationship

Following the establishment of a formal Sister City relationship, the City Manager, with the assistance of the Shoreline Sister Cities Association's leadership, will present an annual report to the City Council at a regularly scheduled workshop meeting. This report should outline the current plan of action, the accomplishments of this plan, and recommendations for updating the plan with new goals for the following calendar year. The City Council may provide input on additional plans/activities for the coming year.

F.Termination

The City Council can terminate a sister city relationship for the following reasons:

- Upon recommendation from Sister Cities Association due to lack of participation, resources or interest on behalf of either City or related supporting groups.
- Lack of progress on accomplishing the goals and activities planned for the previous year
- Behavior on the part of the Shoreline Sister Cities Association, its volunteers, or paid staff, that violates federal, state or local laws.

ORIGINAL

RESOLUTION NO. 213

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, AMENDING RESOLUTION NO. 194, SISTER CITY RELATIONSHIP POLICY TO CLARIFY EXPENDITURE OF CITY FUNDS AND SISTER CITIES ASSOCIATION INVOLVEMENT

WHEREAS, the City Council adopted Resolution No. 53 encouraging the creation of a Sister Cities Association; and

WHEREAS, the City Council adopted Resolution No. 194 establishing a Sister City Relationship Policy; and

WHEREAS, the City Council wishes to amend this policy to provide clarity and direction to staff regarding the appropriate expenditure of City funds on sister city activities;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON AS FOLLOWS:

Section 1. Amendment. Section D. of "Shoreline's Sister City Relationship Policy," adopted on October 14, 2002 by Resolution No. 194-Exhibit A, is hereby amended as follows:

D. City Involvement

1. The City supports the Shoreline Sister Cities Association through largely indirect means. ~~, and does not intend to provide on-going funding for operations.~~ In general, the City will support the Association's efforts through combined promotion and publicity efforts, assisting with scheduling Council and Staff attendance at local exchanges, visits by delegations and providing meeting room space for Association business. The City may also work with the Association to provide opportunities for exchanges with recreational programming and special events as resources allow. The City of Shoreline may involve private citizens and organizations in the implementation of this policy, at the discretion of the City Manager.

2. Through its sister cities program, the City of Shoreline carries out a fundamental government purpose of providing social, cultural and educational services. The City will, therefore, expend such funds as it may deem necessary and appropriate to ensure the proper functioning of the sister cities program. To assure that the Shoreline Sister Cities Program is conducted in a manner consistent with public interest and in accordance with the laws of the State of

Washington and the City of Shoreline Code of Ethics, the following guidelines are hereby established:

a. The City of Shoreline shall provide such staff support as is necessary to establish and maintain communication with the Shoreline Sister Cities Association and with its sister cities.

b. The City may support the Shoreline Sister Cities Association as a dues paying member.

c. City funded delegate exchange activities may include:

- Travel for City staff, when travel is necessary to establish or maintain an official sister city affiliation. Travel for elected officials at City expense is subject to prior City Council approval and staff travel will be approved by the City Manager;

- Appropriate activities to receive public officials, or their delegates, when visiting Shoreline on official sister city business;

- The exchange of information and material which support the objective of providing social, cultural and educational services, or economic benefit to the public; and

- The exchange of technical resources and staff, when such an exchange serves the objectives outlined in this policy and is necessary to establish or maintain the sister city affiliation.

d. Any funding for private purposes is prohibited.

e. Donation of city assets, when that donation clearly serves a public purpose as outlined in this policy, may be authorized by the City Manager provided the recipient is a public entity. Promotional items of de minimus value may be distributed to individuals.

f. Official gifts received in the course of sister city activities will be the sole property of the City of Shoreline. The City will maintain an inventory of such gifts and will attempt to display them in an appropriate public setting.

g. Hosting, including travel, accommodation, entertainment and meals, received by City delegates while visiting the sister city must be in amounts commensurate with the business purpose of the trip.

h. City funds may be spent to advertise the sister city relationship or exchange events.

i. City expenditures for sister city activities shall not exceed the amount appropriated in the annual budget.

E. Sister Cities Association Involvement

The City of Shoreline recognizes that an active Sister Cities Association is essential to the vitality and success of the Sister Cities Program. The City expects the Shoreline Sister Cities Association to support friendship and sister city relationships by:

- Assisting the City in learning about potential relationship cities, and making recommendations to the City Manager on how to proceed.
- Developing the resources needed to support the plans of action for each relationship. Linking organizations, people and institutions in Shoreline with counterparts in relationship cities.
- Conducting fund-raising and providing in-kind support
- Planning, organizing, and implementing exchanges and formal visits
- Communicating with the City organization about opportunities for involvement

City funding of sister city activities will be contingent upon the strong financial involvement of the Shoreline Sister Cities Association. The City will, therefore, expend such funds as is necessary provided that the Shoreline Sister Cities Association substantially endeavors to promote fundraising efforts and in-kind contributions to support sister city activities. The City expects the Shoreline Sister Cities Association to fund significant delegation exchange activities when necessary to establish or maintain a sister city relationship. Such activities may include accommodations, entertainment, and Council travel.

~~F.~~E. Annual Review of Sister City Relationship

Following the establishment of a formal Sister City relationship, the City Manager, with the assistance of the Shoreline Sister Cities Association's leadership, will present an annual report to the City Council at a regularly scheduled workshop meeting. This report should outline the current plan of action, the accomplishments of this plan, and recommendations for updating the plan with new goals for the following calendar year. The City Council may provide input on additional plans/activities for the coming year.

G.~~F.~~ Termination

The City Council can terminate a sister city relationship for the following reasons:

- Upon recommendation from Sister Cities Association due to lack of participation, resources or interest on behalf of either City or related supporting groups.
- Lack of progress on accomplishing the goals and activities planned for the previous year.

- Behavior on the part of the Shoreline Sister Cities Association, its volunteers, or paid staff that violates federal, state or local laws.

ADOPTED BY THE CITY COUNCIL ON APRIL 26, 2004.

Ronald B. Hansen

Mayor Ronald B. Hansen

ATTEST:

Sharon Mattioli

Sharon Mattioli, City Clerk

Council Meeting Date: September 11, 2006 **Agenda Item:** 9(c)

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	King Conservation District Assessment
DEPARTMENT:	City Council
PRESENTED BY:	Councilmember Gustafson

PROBLEM/ISSUE STATEMENT:

The Suburban Cities Association Policy Issues Committee will be meeting on September 13 to vote on a recommendation to the SCA Board on the King Conservation District assessment issue. The attached policy paper was prepared by a PIC subcommittee for submission to the full PIC. If Council wishes to provide guidance to the City PIC representatives (Mayor Ransom – member, Councilmember Gustafson – alternate) they should do so at the September 11 meeting.

RECOMMENDATION

It is recommended that the City Council provide direction to Mayor Ransom and Councilmember Gustafson on this issue.

Approved By: City Manager ___ City Attorney ___

Attachment: A. SCA PIC Policy Issue paper

Briefing for SCA Public Issues Committee
on the
King Conservation District Assessment Re-authorization
September 13, 2006

Issue:
The King Conservation District has requested approval by the King County Council to re-authorize the existing special assessment of $10 per parcel, which was approved in 2006, for a 5-year period and has proposed a new assessment allocation of funding.

Background:
The King Conservation District (KCD) is a special purpose district within King County that is allowed by State law to assess up to $10 per parcel to fund the KCD programs. Prior to 2006 the KCD assessment was $5 per parcel. In 2005, the King County Council approved a one-year assessment of $10 per parcel for 2006. The KCD is now requesting re-authorization of the $10 per parcel assessment along with changes as to how the funding would be allocated. The estimated total revenue to be generated in 2007 by the $10 per parcel assessment is $5.87 million. The revenue from the new 2007 assessment is proposed to be allocated to the following programs in the KCD work program:

Stakeholder/Partnership Program	2007 Allocation of Funding
Member Jurisdiction Partnerships	$1,725,291
WRIA Forum Partnerships	$1,811,556
Conservation Partnerships Grants/Contracts	$478,071
Other King Conservation District Programs & Services	$1,783,274
Total	$5,798,192

The existing 2006 assessment was allocated to the following programs in the KCD work program:

Stakeholder/Partnership Program	2006 Allocation of Funding
Member Jurisdiction Partnerships	$1,112,523
WRIA Forum Partnerships	$3,337,570
Conservation Partnerships Grants/Contracts	$0
Other King Conservation District Programs & Services	$1,112,523
Total	$5,562,616*

*The difference between 2006 and 2007 total allocations are due to estimated revenue amounts and change revenue due to the increase in the number of parcels within the County.

The changes in the 2007 assessment from the 2006 assessment is as follows:

- 50% increase in funding to the County and cities that are members of the King Conservation District.
- $440,000 dedicated to implementation of the Conservation District Strategic Initiatives related to salmon recovery, sustainable agriculture and response monitoring.
- $478,071 dedicated to a new competitive grant program, which will allow non-profit groups and local governments to apply for funds to implement projects related to salmon recovery, sustainable agriculture and response monitoring.

- A 12.5% increase in funding for the Conservation District activities due to the increased workload that has resulted from the passage of the County's new Critical Areas Ordinance and partially replaces contact funds for this purpose that used to come from King County. This funding is primarily used to help property owners with the development of a farm plan that protects water quality and salmon habitat.
- A 54% reduction in the WRIA Forum funding that is used to fund projects identified in the WRIA 7, 8 and 9 Salmon Habitat Plans that were ratified by the County and cities in 2006.

In summary, the 2006 KCD $10 per parcel assessment was allocated with WRIA Forums getting $6, Member Jurisdictions getting $2 and the KCD also getting $2 (6-2-2). The proposed 2007 KCD $10 per parcel assessment would be allocated with the WRIA Forums getting $3, Member Jurisdiction getting $3, the KCD getting $3 and a new competitive grants program getting $1 (3-3-3-1).

Policy Issues:

1. The 54% (over $1.5 million) reduction of funding to the WRIA Forums will significantly reduce the WRIA Forums ability to implement the already priority projects that have been identified for implementation and ratified by the County and the cities within each of the WRIA's by their approval of the Salmon Habitat Plans developed for WRIA's 7, 8 and 9. The WRIA Forums could submit project to the KCD as part of their new competitive grants program, but it would create additional work, another layer of review, and unnecessary bureaucracy. Each jurisdiction that is a member of the KCD could use their 50% increase in funding to fund projects identified in the WRIA Salmon Habitat Plans, but there is no guarantee that jurisdictions would do that and again it creates additional work, another layer of review, and unnecessary bureaucracy.

   The jurisdictions within the WRIA worked together over the last six years to produce the WRIA Salmon Habitat Plans and implement projects in response to the Endangered Species Act listing of Chinook salmon and bull trout. These plans are an integral part of a Salmon Recovery Plan for the Puget Sound Evolutionary Significant Unit that is being developed by NOAA Fisheries and the USFW Services, in coordination with Shared Strategy. The KCD funding is important to show the federal agencies that the actions identified within the WRIA plans will be implemented over a reasonable time period.

   The WRIA Forums are ramping up implementation of the ratified WRIA Salmon Habitat Plans and the reduction in funding will hurt this effort. The reduction in funding could result in the need for individual jurisdictions to contribute more to the implementation of the WRIA plans, slow down or stop project implementation. It also may have an impact on the new 9-year interlocal agreement being developed to fund the administrative and project management costs associated with implementing the WRIA plans. Jurisdictions may not approve a new WRIA interlocal agreement, if there is reduced funding to implement projects due to the concern that the funding shortfall may have to be made up by the jurisdictions that are part of the new WRIA interlocal agreement.

2. The total proposed allocation distribution provides a lot of funding for salmon recovery, but it would be distributed so broadly that the regions ability to address

the significant habitat improvements that are necessary to increase salmon population, distribution and diversity would be decreased.

3. Each member jurisdiction would get a 50% increase in the funding that they could submit non-competitive grant applications to the KCD for projects that meet the KCD funding criteria. This may be beneficial to individual jurisdictions to fund other programs and efforts. The increase in funding to medium and small cities is not very much and may not be enough to do anything of value. In addition, there is still the administrative work of getting approval of a grant by the KCD, the legislative approval of an agreement with the KCD for the grant and, reporting that offsets the benefits of the incremental increase in funding.

4. The KCD assessment has to be approved by the King County Council, which can only approve or reject the KCD proposed $10 per parcel assessment and assessment allocation. The County Council cannot change how the KCD assessment is allocated.

Options:
The following are options that the SCA can consider:

1. Support the re-authorization of the proposed KCD $10 per parcel assessment and the proposed assessment allocations (3-3-3-1).

2. Support the re-authorization of the proposed KCD $10 per parcel assessment, but not the proposed assessment allocation. Support the assessment allocations that was approved in 2006, or develop an alternative assessment allocation.

3. De-annex from the King Conservation District and be removed from the district assessment.

Recommendation:
Recommend that the SCA support the proposed King Conservation District $10 per parcel assessment re-authorization, but not the proposed assessment allocation of 3-3-3-1. Recommend that the SCA request the King County Council to reject the proposed KCD assessment and funding allocation plan, unless the King Conservation District revises the proposal to include an assessment allocation that is similar to the 2006 assessment allocation of (6-2-2).