

Commissioner Marx referred to Page 7, seventh paragraph of the minutes, and said she recalled that the motion was to accept the amendment and not the staff's recommendation for no change.

VICE CHAIR GABBERT WITHDREW HIS MOTION AND COMMISSIONER BRADSHAW, WHO SECONDED THE MOTION, CONCURRED.

COMMISSIONER BRADSHAW MOVED TO CHANGE THE MINUTES TO REFLECT THE FACT THAT THE COMMISSION VOTED TO ACCEPT PROPOSED AMENDMENT 162 AS PRESENTED. COMMISSIONER VADSET SECONDED THE MOTION.

Tim Stewart, Director of Planning & Development Services, said that staff records indicate that the Commission did not accept the proposed amendment. The Commission discussed whether or not it was appropriate for the minutes to be changed. Commissioner Maloney recommended that the Commission review the tapes to recall the facts that their vote was based upon. The Commission discussed the option of tabling the approval of the minutes until the tape could be reviewed to make sure that the record is accurate. The Commission would then have the opportunity to reconsider the issue and either affirm or change the previous vote.

COMMISSIONER VADSET WITHDREW HIS SECOND. MOTION FAILED FOR LACK OF A SECOND.

COMMISSIONER MONROE MOVED TO TABLE THE APPROVAL OF THE MINUTES OF SEPTEMBER 2, 1999 FOR CONSIDERATION AT A LATER DATE. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

CHAIR KUHN LEFT THE ROOM AT 7:16 P.M. AND HAD VICE CHAIR GABBERT TEMPORARILY TAKE OVER THE MEETING. CHAIR KUHN RETURNED TO THE ROOM AND RESUMED CHAIRING THE MEETING AT 7:21 P.M.

5. PUBLIC COMMENT

Naomi Hardy, 17256 Greenwood Place North, recalled the comments that were made at the last meeting regarding Proposed Amendments 86 and 87 which ask that Chapter 18.06 of the current code not be repealed until Phase II of the development code process is completed. It also asks that the definitions be re-examined. Ms. Hardy referred to Proposed Amendment 75 regarding special use criteria. She said that without the amendment the criteria's purpose would be defeated. She said her neighborhood believes that while a particular use may be deemed necessary, it may not be necessary in a particular location. The Comprehensive Plan's fair distribution policy should be followed. She asked that the Commission carefully read Proposed Amendments 74 and 75 and Pages 48 and 49 of the Phase I text.

Ginger Botham, 16334 Linden Avenue North, said that she started attending Planning Commission and City Council meetings when a project took place next to her property, and she has only missed a few meetings since that time. She has attended Hearing Examiner meetings, and read the King County Code and the Shoreline Municipal Code. She also reads the newspapers looking for land use situations that have similarities to the Comprehensive Plan issues the City of Shoreline is dealing with. Ms. Botham

referred to the Commission meeting in which the concept of sending legislative issues to the Hearing Examiner instead of the Planning Commission was presented. She said this was not intended to be an insult to the Commission's capabilities. She noted that every Hearing Examiner appeal hearing she has attended has been determined on technical grounds (RCW's, Municipal Code, SEPA, etc.) She suggested that if the Hearing Examiner were to handle these issues, the genetic of information would be larger.

Ken Howe, 745 North 184th Street, reminded the Commission that the City has a mandate to consider the issues related to historical property. RCW 84.26 states that, "The legislature finds and declares that it is in the public interest of the people of the State of Washington to encourage maintenance, improvement and preservation of privately-owned historic landmark as the State approaches its centennial year of 1989. He provided a statement to the Commission related to the advantages of having preservation districts.

6. REPORTS OF COMMISSIONERS

There were no reports from the Commissioners.

7. STAFF REPORTS

Mr. Stewart informed the Commission that an ordinance regulating card rooms within the City is scheduled on the Commission's October 7, 1999 agenda as a public hearing. He said this issue is related to the City Council's directive that the Commission initiate action to limit gambling activities within the City. He also noted that the zoning amendment regarding retail adult entertainment uses would be coming before the Commission within the next month. There are also four contract rezones that are in the process.

To provide further clarification, Mr. Stewart said the City Council placed a moratorium on gambling facilities. At that time, they directed staff to move forward with an amendment to the zoning code which would prohibit card rooms in the City of Shoreline, but would allow existing card rooms to continue as pre-existing, non-conforming uses. They also directed the staff to prepare a resolution which would tie the tax rate that is currently assessed to gaming establishments so that it increases as the number of gaming tables in the City increases. Ian Sievers, City Attorney, added that there is some proposed legislation that would reaffirm the City's right to take this land use action.

Commissioner Monroe inquired the reasoning behind the gaming moratorium. Mr. Stewart said staff provided the City Council with a series of alternative approaches regarding gaming facilities. The most restrictive alternative would be to ban all gaming in the City and amortize out existing institutions over a period of time. The other extreme would be to actively encourage, recruit, promote and subsidize gaming as an economic alternative. The City Council chose the alternative that would ban the expansion or location of new card rooms, but allowing the current card rooms to continue.

8. PUBLIC HEARING – PHASE I OF THE DEVELOPMENT CODE

Chair Kuhn reconvened the public hearing that was recessed on September 2, 1999.

COMMISSIONER BRADSHAW MOVED TO RECONSIDER THE COMMISSION'S VOTE REGARDING AMENDMENT 162 (REFERENCE PAGE 184). COMMISSIONER MARX SECONDED THE MOTION.

Chair Kuhn clarified that the motion is not to amend the Commission's action, but only to reconsider the decision. Commissioner Maloney, again, stated that he does not feel it is appropriate for the Commission to deal with the issue until they know the facts on the recording. Chair Kuhn said he did not feel the facts would change a Commissioner's ability to make a motion for reconsideration. The Commissioners could either vote for or against the motion. If there is a motion in favor of reconsideration, the Commission could debate the decision that was made before. Until the development code is a final product and approved by the City Council it is subject to change at any time. Commissioner Maloney pointed out that because the decision was made in the context of a specific discussion, the Commission would be voting out of context if they were to make a decision before listening to the tapes.

MOTION CARRIED 6-2 WITH COMMISSIONERS MALONEY AND MONROE VOTING IN OPPOSITION.

COMMISSIONER BRADSHAW MOVED TO ADOPT PROPOSED AMENDMENT 162 AND TO RELOCATE THE INFORMATION IN SECTION 5, PAGE 5 OF THE DRAFT CODE TO AFTER THE DEFINITIONS IN SECTION 4. COMMISSIONER MARX SECONDED THE MOTION. MOTION CARRIED 7-1 WITH COMMISSIONER MONROE VOTING IN OPPOSITION.

Chair Kuhn recalled that at the end of the September 2, 1999 public hearing, the Commission had tabled their discussion regarding Amendment 100.

COMMISSIONER BRADSHAW MOVED TO ADOPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENT 100. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Regarding Amendment 84, Commissioner Monroe requested a definition for Type B actions. Mr. Stewart referred to Pages 29 and 31 of the Code (Attachment A). He said the list of Type A actions can be found on Page 29, and Type B actions can be found on Page 31. Mr. Stewart described that a Type A action is an administrative action. If a proposal meets all of the standards, it would be approved. Type B actions are much broader in terms of notice and process than Type A actions. Mr. Stewart said that, generally, variances are listed as Type B actions, and engineering variances are listed as Type A actions. The amendment before the Commission would make engineering variances Type B decisions. Mr. Stewart explained that, typically, road and engineering variances are administrative decisions that are usually made by the City Engineer. Staff would like to separate the minor engineering type variances from the larger land use variances.

Commissioner Monroe noted that citizens have repeatedly raised this issue. They are concerned that this provision often ends up creating lot sizes that are smaller than the mandated minimum. He concurred with the proposed amendment. Commissioner Bradshaw inquired why a variance would be an administrative decision instead of a Commission decision. Mr. Stewart said that the current process for granting engineering variances is structured to allow the City Engineer to make a decision. The level of discretion involved in making a variance decision is, typically, very narrow. The facts are evaluated and compared against the standards in the ordinance, and then staff makes a decision. Type B actions are appealable to the Hearing Examiner.

Commissioner Monroe noted that there have been more than 100 citizens who testified on this issue because they find the present system ineffective. Commissioner Monroe suggested that perhaps the Commission should consider making engineering variance decisions the Planning Commission's responsibility. Commissioner Vadset disagreed and said the Commission does not have time to make a decision on every engineering variance that is filed. He suggested that is why most municipalities use the City's current method. He concluded that the Commission should accept the staff's recommendation.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 84. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED 6-2.

Mr. Stewart explained that approval of Proposed Amendment 85 would allow an appeal of any Type A action to the Hearing Examiner. Anna Koloušek, Assistant Director of Planning & Development Services, explained that every Type A action of the magnitude that would require a SEPA review would automatically be appealable. The only clear Type A actions are those that are categorically exempt from SEPA (i.e. additions to buildings, accessory dwelling units, deck additions, etc.) During the last four years they have reviewed close to 4,000 permits. Over ninety percent of the Type A actions received no public comment. The City did not have a single case involving a Type A action (one that did not require a SEPA review) that raised any kind of concern. Ms. Koloušek noted that this amendment would only be applicable to Type A actions. She further explained that if an engineering variance was part of a larger project or required a SEPA review it would go before the Hearing Examiner as a Type B action. This amendment would not include variances for road width of a short plat or a subdivision. These variances automatically go together with the preliminary short plat or subdivision proposal which is a Type B action. If the proposal is for more than four lots, it would be classified as a Type C action.

Mr. Stewart clarified that Proposed Amendment 85 would subject all of the permits listed on Page 29 to an appeal process before the Hearing Examiner. The consequence of that change would be that all permits would be held for 14 days (the appeal period) before they are effective or final. Commissioner Maloney said he felt that would be a good idea. Mr. Stewart added that if an appeal is filed, it must be heard and decided within 90 days from the date of the appeal. The cost of an appeal before the Hearing Examiner runs between \$1,200 to \$3,000. It costs the individual citizen \$350 to challenge an action. Commissioner Vadset expressed concern regarding the substantial cost involved with Proposed Amendment 85. He also noted that the permit process would be lengthened, as well.

Ms. Koloušek explained that the engineering department only has the authority to approve a variance if it complies with the criteria provided. Commissioner Maloney recalled that a number of people testified regarding the safety issues related to hammerhead turn arounds which have been granted on a variance basis. He inquired if this situation is encompassed in Proposed Amendment 85. Mr. Stewart said the creation of a hammerhead would be part of a short plat (Type B) or a long plat (Type C) action. These variances cannot be granted independent of an appeal process. Ms. Koloušek said that when the Commission reviews the engineering standards, hammerheads will become an issue of discussion.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION REGARDING PROPOSED AMENDMENT 85. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED 7-1.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION REGARDING PROPOSED AMENDMENT 101. COMMISSIONER MARX SECONDED THE MOTION. MOTION CARRIED 7-1.

Commissioner Bradshaw noted that Proposed Amendments 120 through 126 and Proposed Amendments 134 through 140 were all tied together.

COMMISSIONER MALONEY MOVED TO ACCEPT PROPOSED AMENDMENTS 120-126. COMMISSIONER MONROE SECONDED THE MOTION.

Commissioner Marx inquired what types of uses would require a temporary use or hazardous material permits. Ms. Koloušek said hazardous material permits are issued over the counter for the removal of the oil tanks people had on their property when they converted their heating systems. The Planning & Development Services Department currently processes all Fire Department related permits for sprinklers, hazardous materials, etc. Commissioner Bradshaw inquired if a hazardous waste permit would be required if someone wanted to transport nuclear waste through the City. Ms. Koloušek answered that a person cannot get a hazardous waste permit without complying with state and federal laws. The City does not issue these permits. Commissioner Bradshaw clarified that the only hazardous material this proposed amendment refers to is the removal of oil tanks. Ms. Koloušek answered affirmatively.

Commissioner Monroe inquired what type of permit he would need to put a spray paint booth in his garage to paint cars. Mr. Stewart said that if a person wants to use an enclosed structure to paint an automobile for personal use, staff would need to seek legal guidance as to whether a permit is necessary. But, this has nothing to do with the proposed amendment.

Mr. Stewart said the staff disagrees with the proposed amendment because it would carve out four of the Type A actions and create a new category for permits (Type A with notice). The notice requirement would involve extensive additional time and work without any change in the public hearing process, etc. Last year, the City processed 1,517 Type A permits. He does not know of any complaints regarding any of the Type A permits.

Commissioner Vadset spoke against the motion. He felt it would be onerous and inconsistent with the Commission's vote regarding Proposed Amendment 85.

Ms. Koloušek said temporary use permits involve a variety of uses that are listed in the current code (i.e. parades, neighborhood gatherings, closing roads for special events, etc.). Mr. Stewart said staff has denied applications for temporary permits when they do not meet the criteria established in the Code. Commissioner Maloney said that if notice is not provided, a citizen would be unable to express opposition until after the permit is granted. Mr. Sievers suggested that since there is no appeal process, there is no reason to provide notice. Mr. Stewart said Type A permit applications are evaluated for completeness and then staff determines if the use is permitted under the current code. If the use is permitted under the law, then the permit must be issued. Commissioner Maloney suggested that a citizen may be able to raise an issue that would enable the staff to make the decision that a permit is not appropriate. If the citizens do not have notice, they cannot provide input.

Mr. Sievers said that for Type A actions, the City does not have the ability to exercise discretion. The application of the Code regulations should be routine. If an action contains a lot of discretionary factors, then it should not be classified as a Type A action. If the City makes a mistake in issuing a permit, a citizen can take the issue to court. Ms. Koloušek said the staff has absolutely no discretionary authority for Type A actions. If a citizen points out factual evidence of a code violation, then the City has the authority to guarantee compliance with all of the standards. Commissioner Maloney suggested that it is better to determine these errors in advance of issuing a permit. Mr. Sievers said the City has the authority to revoke a permit if a use is not in compliance with the code.

The Commission discussed the current notice requirements. Vice Chair Gabbert said that whenever some type of development occurs in Seattle, the City of Seattle posts a placard on the property. Mr. Stewart said the Council has directed that the City recover 80 percent of their costs through the permit fee system. They are just about doing that now, but if there are additional costs, they will have to cover these costs through increased fees.

COMMISSIONER MALONEY AMENDED HIS MOTION TO INCLUDE PROPOSED AMENDMENTS 134 THROUGH 140. COMMISSIONER MONROE, WHO SECONDED THE MOTION, AGREED. MOTION FAILED 2-6.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DISAGREE WITH PROPOSED AMENDMENTS 120 THROUGH 126 AND PROPOSED AMENDMENTS 134 THROUGH 140. COMMISSIONER VADSET SECONDED THE MOTION.

Commissioner Maloney noted that Proposed Amendments 129 through 140 were signed by 28 members of the Planning Academy who have done extensive research on the issue. He said he finds it very unfortunate that the Planning Commission would ignore their work. Commissioner Vadset noted that they are not ignoring their work. They are choosing not to agree with it.

MOTION CARRIED 6-2.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DISAGREE WITH PROPOSED AMENDMENTS 128, 129 AND 164. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED 6-2.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DISAGREE WITH PROPOSED AMENDMENTS 165 AND 166. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED 7-1.

Commissioner Bradshaw said Proposed Amendment 51 is in regard to neighborhood meetings. He referred to Page 30 of the Code. He suggested that the word "required" be replaced with "encouraged." While he felt neighborhood meetings are important, they should allow the developer discretion for Type B actions.

COMMISSIONER BRADSHAW MOVED TO ACCEPT AMENDMENT 51 AS PROPOSED. COMMISSIONER VADSET SECONDED THE MOTION. MOTION FAILED 2-6.

Commissioner Bradshaw explained that if a neighborhood meeting is required, then Proposed Amendment 52 would ensure that a qualified staff member is available to address issues regarding the law to the residents. Chair Kuhn suggested that the term "qualified" would be difficult to define. A Commissioner suggested that the term "a City planning staff" be used instead of "qualified." Mr. Stewart said this amendment would present an issue of funding. The City bills at a rate of \$93 per hour, therefore, the applicant would be presented with a \$300 to \$400 bill in addition to conducting a neighborhood meeting.

Commissioner Bradshaw suggested that if the citizens were made aware of the requirements of the law, then a lot of the turmoil would be "nipped in the bud." Chair Kuhn did not feel it was necessary to require that a City staff person be available at the neighborhood meetings. Mr. Stewart said Page 33 of the proposed code sets out the recommended procedure for conducting a neighborhood meeting. The last paragraph is intended to avoid some of the problems that have just been discussed. The applicant would be required to provide a report of the meeting that would become part of the record. The neighbors would have the opportunity to challenge the report if they feel it is not correct. He added that any citizen should feel free to submit their own report to the City.

The Commission noted that there was significant input from the development community in Shoreline indicating that they are in favor of neighborhood meetings. Mr. Stewart said there seems to be a consensus for finding positive ways to develop in Shoreline. It is hoped that the neighborhood meetings would be one of the tools.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENT 52. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER MARX MOVED TO ACCEPT PROPOSED AMENDMENTS 83 AND 102 AS PRESENTED. COMMISSIONER MONROE SECONDED THE MOTION. MOTION CARRIED 7-0, WITH CHAIR KUHN ABSTAINING.

VICE CHAIR GABBERT MOVED TO ACCEPT PROPOSED AMENDMENT 167 AS PROPOSED. COMMISSIONER MONROE SECONDED THE MOTION.

Commissioner Bradshaw inquired under what conditions the Director would be allowed to waive a neighborhood meeting. Mr. Stewart said this would be used for applications that are of such a minor nature that it is logical to waive the meeting. This would only be used in cases where there would be no impact to another property owner.

MOTION FAILED 2-6.

COMMISSIONER BRADSHAW MOVED TO ACCEPT PROPOSED AMENDMENT 53 AS PROPOSED. COMMISSIONER MONROE SECONDED THE MOTION.

Commissioner Bradshaw referred to Ordinance No. 36, which was adopted by the City Council regarding the duties and responsibilities of the Planning Commission. He specifically referenced Section 6, Paragraph 4, which states that "Where design review is required by land use ordinances of the City, the Planning Commission shall perform such design review . . ." He also cited Paragraph 11 of Ordinance No. 36 stating, ". . . public hearings required to be held in the course of adoption or amendment of the comprehensive plan, the zoning code, adoption or amendment of the zoning map, or adoption or amendment of regulations for the subdivision of land, shorelines management and environmental protection regulations, shall be heard by the planning commission." Following these regulations, the Planning Commission should be the appeal authority for all land use actions. The Commission recalled that when this issue was discussed previously, they had a full agenda. They voted to give this responsibility to the Hearing Examiner.

Mr. Stewart said there were probably about 12 public hearings regarding land use issues last year. This would probably mean that the Commission would have to go to a weekly meeting schedule in order to handle everything on their agenda. Ms. Koloušek pointed out that there is a time limit for when the public hearings must be held.

MOTION FAILED 3-5.

COMMISSIONER BRADSHAW MOVED TO ADOPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENT 54. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER MALONEY MOVED TO ACCEPT PROPOSED AMENDMENTS 82 AND 103 AS PRESENTED. VICE CHAIR GABBERT SECONDED THE MOTION.

Commissioner Marx inquired why staff does not agree with posting notice at a grading site. Ms. Koloušek said that the amount of grading that fills one truck or less is generally considered exempt. If any grading is done under the building structure, it is also exempt from the permit requirements. She added that sedimentation and erosion laws are as aggressive as the code presently requires, and staff is

working to tighten the methods. She added that the enforcement of sediment and erosion control is very strong.

Commissioner Marx inquired why staff is against posting a grading notice on site and in the newspaper. Ms. Koloušek said the notices would be paid for by the applicant. A one-lot grading permit for grading outside the building footprint is usually about \$200. The cost of the sign is about \$150.

MOTION FAILED 2-7.

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION REGARDING PROPOSED AMENDMENT 177. COMMISSIONER MARX SECONDED THE MOTION. MOTION CARRIED 7-1.

Mr. Stewart said the essence of Proposed Amendments 91 through 95 is to change the review authority from the Planning Commission to the Hearing Examiner. He recalled that the Planning Academy held a lengthy debate on this issue, and the staff recommends no change at this time.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENTS 91, 92, 93, 94 AND 95. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENTS 2, 3 AND 55. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENT 56. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER MARX MOVED TO ACCEPT PROPOSED AMENDMENTS 61 AND 62 AS PRESENTED. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER MALONEY MOVED TO ACCEPT PROPOSED AMENDMENTS 159 AND 160 AS PRESENTED. VICE CHAIR GABBERT SECONDED THE MOTION.

Commissioner Vadset said it appears that the intent of the amendment would be that the staff could not accept an application until a pre-application neighborhood meeting was held. He said he is not 100 percent against neighborhood meetings, but he has a problem with it becoming a condition of approval unless it is well defined. Chair Kuhn clarified that Proposed Amendment 159 would require that the applicant expose how the project meets or does not meet existing code requirements and design standards and identify any required variances. Mr. Stewart said staff would hope that rather than arguing over the procedural and technical issues of a development proposal, the early meeting could concentrate on the quality of the application. The question of code compliance would be reviewed at a later step. Staff would like to see the emphasis placed on issues such as mass, bulk, setbacks, transition,

etc. If the developer and the neighborhood could reach an agreement on these provisions, perhaps there could be a development agreement or contract rezone to include all of the negotiated conditions. This would encourage flexibility and compromise between a developer and the neighbors. If a developer is required to come to the first meeting and outline his hard legal position of compliance or noncompliance, it defeats the purpose of working towards a solution.

Chair Kuhn added that the intent of the pre-application meeting is to give the neighborhood notice of what is being proposed so that they can try and work issues out with the developer. He said he does not feel it is necessary to have a strict interpretation of whether or not an application complies with the existing code. Commissioner Maloney said the intent of the amendment is to require a disclosure of the variances that may be necessary. He felt that would be desirable because the developer, particularly in a larger project, has a substantial advantage over the neighbors who have limited resources. This sort of information could be helpful to the citizens in dealing with what they perceive to be an adverse development.

Mr. Stewart explained that a variance request must be filed at the time of application. This is subsequent to the pre-application meeting. It may be that some variances are requested after the pre-application meeting to answer some of the neighborhood's concerns. This amendment might create a situation where a neighbor could argue that another pre-application meeting must be held because the variance was not disclosed at the previous meeting.

THE MOTION WAS AMENDED TO ONLY INCLUDE PROPOSED AMENDMENT 159. MOTION FAILED 1-7.

Mr. Stewart suggested that the intent of Proposed Amendment 160 is to make sure that a summary of the pre-application meeting becomes part of the record and part of the application. He suggested that this could be accomplished by adding a new provision on Page 34 stating, "The director shall specify submittal requirements, including type, detail, and number of copies of the application, and copy of the summary of the neighborhood meeting, for an application to be complete."

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S ALTERNATIVE RECOMMENDATION FOR PROPOSED AMENDMENT 160. COMMISSIONER VADSET SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Mr. Stewart advised that because the issue addressed in Proposed Amendments 76, 77, 110, 146, 168 and 169 is a major concern, staff has crafted an alternative that would address their intent (see last page of Attachment E—blue paper). He said the intent of these amendments was to figure out a way in which the public could propose an amendment to the Comprehensive Plan and to also propose an amendment to the text of the development code. He said staff considers this issue to be significant and offers the following alternatives:

- A member of the Public may propose an amendment to the Comprehensive Plan. The amendment(s) shall be considered by the City during the Annual Review of the Comprehensive Plan.

- A member of the Public may request that the City Council, Planning Commission or Director initiate an amendment to the text of the Development Code.

This language would require that a member of the Commission or the City Council sponsor the proposed text amendment, and that the acting body would then direct staff to prepare and initiate the amendment to be brought before a formal public hearing. Staff feels this is a fair balance between allowing no opportunity for the public to petition amendments and allowing hundred and hundreds of petitions. If a Commissioner or City Councilmember feel that an amendment has merit, they could ask staff to initiate the amendment.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S ALTERNATIVE RECOMMENDATION FOR PROPOSED AMENDMENTS 76, 77, 110, 146, 168 AND 169.

The Commission discussed whether it is appropriate to allow any member of the public to propose a code amendment. Some expressed concern that this opportunity would not be limited to residents of the City of Shoreline. They recommended that staff's proposed alternative read "Any person may" rather than "A member of the public."

COMMISSIONER VADSET AMENDED HIS MOTION TO INCLUDE THE CHANGE FROM "A MEMBER OF THE PUBLIC" TO "ANY PERSON MAY." COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Mr. Stewart said Proposed Amendment 89 deals with the language provided on Page 37. This language is grounded in state law, and staff is reluctant to make changes. Mr. Sievers said that according to current case law, long plats have vesting statutes that apply for the duration of the preliminary plat approval. After final approval it vests those lots with current land use regulations for five years. Short plats have no expiration period for the vested zoning and land use regulations in effect at the time the application was accepted.

COMMISSIONER VADSET MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 89. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 4. COMMISSIONER VADSET SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRADSHAW MOVED TO ACCEPT STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 5. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRADSHAW MOVED TO ADOPT STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 6. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENTS 7 AND 8.

Commissioner Marx noted that a comma should be added on Item A between "impacts" and "especially."

VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY (including the addition of a comma as suggested by Commissioner Marx).

COMMISSIONER MARX MOVED TO ACCEPT PROPOSED AMENDMENT 9 AS PRESENTED. COMMISSIONER MONROE SECONDED THE MOTION.

The Commission discussed whether it would be appropriate to replace the word "properly" with "lawfully." Mr. Stewart said this provision gives the applicant the ability to move the building area to a logical location by imposing conditions that would insure that the lot is developed properly. Commissioner Monroe noted that this would require a variance or some other manipulation that is allowed by the ordinance. Therefore, the word "lawfully" would be appropriate. The Commission expressed their concern regarding the interpretation of the word "properly."

COMMISSIONER MONROE MOVED TO EXTEND THE MEETING TO FINISH THE DISCUSSION REGARDING PROPOSED AMENDMENT 9. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

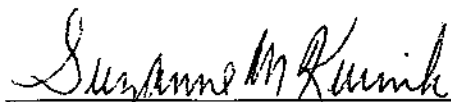
COMMISSIONER MARX AMENDED HER MOTION TO ACCEPT THE PLANNING COMMISSION'S RECOMMENDED ALTERNATIVE FOR PROPOSED AMENDMENT 9 AS MODIFIED, CHANGING "PROPERLY" TO "LAWFULLY." COMMISSIONER MONROE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY BY A VOTE OF 8-0.

9. ADJOURNMENT

The meeting was adjourned at 9:32 p.m.



Dan Kuhn
Chair, Planning Commission



Suzanne M. Kurnik
Clerk, Planning Commission

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

October 21, 1999
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

Chair Kuhn
Vice Chair Gabbert
Commissioner McAuliffe
Commissioner Monroe
Commissioner Marx
Commissioner Parker
Commissioner Maloney
Commissioner Bradshaw

STAFF PRESENT

Tim Stewart, Director, Shoreline Planning & Development Services
Anna Koloušek, Assistant Director, Planning & Development Services
Ian Sievers, City Attorney
Allan Johnson, Planner II, Planning and Development Services
Lenora Blauman, Planner III, Planning and Development Services

ABSENT

Commissioner Vadset

1. CALL TO ORDER

The regular meeting was called to order at 7:00 p.m. by Chair Kuhn, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuhn, Vice Chair Gabbert, and Commissioners McAuliffe, Monroe, Maloney and Bradshaw. Commissioner Vadset was absent, and Commissioner Marx arrived at the meeting at 7:02 p.m. and Commissioner Parker arrived at 7:03 p.m.

3. APPROVAL OF AGENDA

COMMISSIONER BRADSHAW MOVED TO REMOVE ITEM 9b REGARDING CARD ROOMS FROM THE TABLE AND SCHEDULE IT ON THE OCTOBER 28, 1999 SPECIAL MEETING AGENDA. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION PASSED BY A VOTE OF 8-0.

4. APPROVAL OF MINUTES

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE MINUTES OF OCTOBER 7, 1999 AS PRESENTED. COMMISSIONER MONROE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

5. PUBLIC COMMENT

Ken Howe, 745 North 184th Avenue Northeast, referred to a new project, Shoreline Village Townhouses, and noted that the first property that is schedule to be demolished is on the historic inventory list that was prepared for the City by the Landmarks Commission as required by a City ordinance. He asked that this information be made available to the citizens in the early stages of the public hearing process.

Dennis Lee, 14547 26th Avenue Northeast, referred to the gambling and card room regulations. Apparently, the City Council considered four proposals and chose Option 4, which would make existing card rooms non-conforming uses and not allow any new card rooms. Now, the Commission is considering Option 3, which would allow the use to expand throughout the City. He suggested that before this decision is made, the Commission should ask for input from the citizens. He also suggested the Commission request information from other cities to find how they deal with this use and make that information available to the public. He asked that the Commissioners consider the affect this type of land use would have on the character of their neighborhood.

Clark Elster, 1720 Northeast 177th Street, reminded the Commission that he is a retired Seattle Police Commander. During his 27-year career he was second in command of the grand jury investigating team that investigated public corruption directly connected to organized gambling, gambling facilities, etc. In most areas where there is a lot of gambling activity, the surrounding neighborhoods fall into decay and decline. He said one of the City's key concerns should be to preserve the present character and quality of the neighborhoods. Gambling activities and neighborhoods do not mix.

Commissioner Maloney inquired if Mr. Elster has any information to suggest that the gambling activity in Shoreline is other than legitimate. Mr. Elster said the people he investigated 25 years ago are still in business today, and some are trying to expand again in this community.

Patricia Peckol, 19144 8th Avenue Northwest, read a letter into the record on behalf of many of the members of the group, Concerned Citizens for Shoreline, as well as many Academy members whose names are on five groups of proposed amendments that have not been considered by the Commission yet. She asked that the Commission consider these amendments seriously for the following reasons:

- The first group of amendments would strengthen the wording for the criteria granting roads and zoning variances. Staff recommended no change (NC), which means that the staff is neutral on the amendment. Staff indicated that the added criteria were redundant, but comparisons show that there is no overlap.
- The second group of amendments requires the addition of a SEPA section to the Phase I code criteria to evaluate and mitigate against the cumulative environmental impact of development. Staff also rated this amendment as NC, meaning that it would be okay with them. The Academy learned that both the State SEPA Act and the Comprehensive Plan mandate that "the cumulative affect of development on the environment must be considered and mitigated against." She said that since the new code must be consistent with state law and the Comprehensive Plan, the proposed amendments must be accepted.
- The last three groups of amendments concern design standards. The staff recommends denial of the amendments with the promise that they will be considered as part of Phase II. She reminded the Commission of an initial staff report that was presented to the Commission and Council stating that Phase I would consist of procedural issues and other generally agreed upon, non-controversial issues. This is exemplified by the inclusion of the 7,200 square foot minimum single-family lot size in the

Shoreline Planning Commission Minutes
October 21, 1999 Page 2

Phase I code. This was a design standard agreed upon by the majority of the Planning Academy and is included in Appendix B of the Phase I draft. Three amendments submitted by the Academy were related to restricting the maximum height of multi-family residential construction to 35 feet. This requirement is spelled out in the Comprehensive Plan. Therefore, it must also be included in the Code. Since this design standard must be passed sooner or later, she suggested that they do it now.

- The Academy has recognized, and at least one staff member has confirmed, that the 35-foot multi-family height limit, together with other code criteria, means that the R-48 zoning designation is no longer realizable in practice. She suggested that it is misleading to retain this designation in the code.
- The Fifth Amendment requires that the buildable area of a lot be greater than or equal to the minimum allowable box size. This is another non-controversial standard agreed to by the majority of the Academy participants. There is no reason to wait until Phase II to correct this loophole.

Ms. Peckol said she hopes the Commission will consider the amendments seriously and recommend approval to the Council. The Planning Academy members will be prepared to support them at the public hearing before the Council.

6. REPORTS OF COMMISSIONERS

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

7. STAFF REPORTS

Tim Stewart, Director of Planning and Development Services, referred the Commissioners to the large stack of information relating to the card room issue that was provided at the Commission's request.

8. PUBLIC HEARING ON PROPOSED REGULATIONS GOVERNING THE REVIEW OF LAND USE APPLICATIONS AND PROCEDURES FOR ADULT USE FACILITIES TO INCLUDE SALES OF ADULT MERCHANDISE

Lenora Blauman summarized the proposal for an ordinance to regulate adult retail sales in the community. She recalled that in June 1998, the City Council identified a new type of adult business that was being established in several locations in Washington State. It was described as a "sex superstore" due to the range of merchandise that was provided and the large size of the store. The Council adopted a moratorium for the purpose of having the City Attorney and staff complete a study and assessment of the impacts to the community. Ms. Blauman said the study materials indicate that developments of this type would have the potential to cause the same impacts as other similar developments. While it is important to remember that these types of uses are constitutionally protected and it is important to allow them in the community, it is also appropriate to regulate them through the zoning requirements and development standards. She referred the Commission to the proposed ordinance and briefly reviewed each of the sections. Ms. Blauman requested that the Planning Commission recommend approval of the proposed ordinance to the City Council. Ian Sievers, City Attorney, said that the deadline for this moratorium is December 22, 1999, and staff is trying to get this item on the Council agenda for November 22, 1999.

THERE WAS NO ONE IN THE AUDIENCE WHO DESIRED TO PARTICIPATE IN THE PUBLIC HEARING. THEREFORE, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Commissioner Monroe inquired if the City has to allow this use to occur. Mr. Sievers replied that they cannot ban the use because many of these items (videos, books, etc.) are deemed to be speech, and they

Shoreline Planning Commission Minutes
October 21, 1999 Page 3

are protected by the Constitution. The City cannot prohibit speech, but they can reasonably regulate the location of adult use facilities.

COMMISSIONER PARKER MOVED TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE PROPOSED ADULT USE FACILITIES ORDINANCE AS PRESENTED BY STAFF. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION PASSED BY A VOTE OF 7-1, WITH COMMISSIONERS BRADSHAW, MCAULIFFE, MALONEY, MONROE, PARKER, MARX AND CHAIR KUHN VOTING IN FAVOR. VICE CHAIR GABBERT VOTED IN OPPOSITION.

9. UNFINISHED BUSINESS

a. Phase I of the Development Code

The Commission began their review of the proposed code amendments starting with Amendment 170 on Page 13, Attachment D to the September 2, 1999 Staff Report.

Proposed Amendment 170

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE FOR PROPOSED AMENDMENT 170.

Commissioner Maloney inquired why the staff does not support the proposed amendment. Mr. Stewart replied that the impervious surface is directly related to the stormwater design manual, which is being developed as part of Phase II. Therefore, staff feels it is premature to deal with this issue as part of Phase I. Commissioner Maloney inquired if staff anticipates that this issue will be dealt with in a way that is similar to the proposal. Mr. Stewart answered that the issue of maximum surface coverage and runoff retention involves many technical aspects. Right now, the design standards allow a maximum of impervious surface that varies by zoning district (ranging from 45 to 90 percent).

Commissioner Monroe recalled that the Commission has been hearing for the last several years that development is exacerbating the stormwater runoff problem and the current standards are not adequate. Mr. Stewart said that is true, especially considering the impact the stormwater runoff may have on endangered species. The City's method for dealing with stormwater runoff will be critical.

Vice Chair Gabbert asked why the standards that are being developed have to be greater than the standards that already exist. Should they ask the Council to approve an ordinance that would require present residents to absorb the cost of putting in stormwater detention systems on existing properties that exceed the limits? Mr. Stewart said the City's existing stormwater standards are not sufficient to meet the requirements of the Endangered Species Act. Staff anticipates that there will be a number of debates regarding the type of standards that should be adopted.

Vice Chair Gabbert questioned whether new developer should be required to pay the price to take care of situations that were created by previous developments. Mr. Stewart said new developers would not be asked to correct existing deficiencies. They would be asked them to address the impacts of their development. The method used for dealing with existing conditions is a whole other issue. The City's existing stormwater situation will require considerable effort to correct.

Commissioner Monroe questioned why staff does not support the amendment? Mr. Stewart said these issues would be addressed as part of Phase II. Commissioner Monroe inquired why they are allowing an inefficient system to continue, which will exacerbate the problem further. Anna Koloušek, Assistant Director of Planning and Development Services, explained that the City is not exacerbating the problem. Every new development proposed in the City must comply with the changes to the impervious surface ratio and provide an analysis of the storm drainage. Presently, new development carries the cost of these improvements in the absence of an adequate infrastructure.

Vice Chair Gabbert said he is not against creating new regulations, but he is concerned that the construction costs will be increased so much that projects will no longer be feasible. It seems that the developers are being forced to pay for problems that were created previously. The City needs to allow development to take place, while at the same time resolve existing conditions. He suggested that this may require more tax dollars to improve the existing infrastructure.

Commissioner Bradshaw agreed with Vice Chair Gabbert that the City must either solve this problem as a whole by taxing everyone, or go to the individual neighborhood and establish LID's to resolve the problems.

Chair Kuhn reminded the Commission that they were straying from the proposed agenda.

COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 10

Chair Kuhn suggested that the term "review" by itself, would be sufficient. He said the City is under a duty to perform a proper review before issuing a permit, and adding the words "thorough" or "proper" does not add anything to that duty.

COMMISSIONER BRADSHAW MOVED TO REMOVE THE WORD "PROPER" FROM THIS SECTION AND USE THE TERM "REVIEW" ONLY. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED.

Proposed Amendment 11

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DENY PROPOSED AMENDMENT 11. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 12

COMMISSIONER BRADSHAW MOVED TO ACCEPT STAFF'S RECOMMENDATION OF NO CHANGE REGARDING PROPOSED AMENDMENT 12. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 13

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 13. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 57

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 57. COMMISSIONER BRADSHAW SECONDED THE MOTION. (It was noted that the amendment was submitted by Commissioner Bradshaw, who agreed to withdraw the amendment. The motion was never voted on)

Proposed Amendment 14

COMMISSIONER MARX MOVED TO ACCEPT PROPOSED AMENDMENT 14 AS PRESENTED. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 15

COMMISSIONER MARX MOVED TO ACCEPT PROPOSED AMENDMENT 15 AS PRESENTED. VICE CHAIR GABBERT SECONDED THE MOTION.

Mr. Stewart advised that removing the word "materially" would make granting the special use permit more difficult. The term "materially" means that there must be something of substance that can be documented as to why it is endangered. Commissioner Bradshaw suggested that if the term "materially" is not included, then the slightest thing that could be construed to endanger health, safety and welfare could be grounds for denial. Mr. Stewart agreed.

MOTION FAILED 1-7 WITH COMMISSIONERS BRADSHAW, PARKER, MCAULIFFE, MARX, MONROE, CHAIR KUHN AND VICE CHAIR GABBERT VOTING IN OPPOSITION AND COMMISSIONER MALONEY VOTING IN FAVOR.

A member of the audience questioned whether or not those who proposed amendments that are currently being discussed would have the opportunity to address the Commission regarding the issue. It was noted that Commissioner Bradshaw has had the opportunity, on several occasions, to explain the reasoning behind his proposed amendments. The Commission discussed whether or not the public would be allowed to address the Commission regarding each of the proposed amendments. Vice Chair Gabbert suggested that it would be helpful if the Commission could have the opportunity to request further information from those who proposed amendments.

VICE CHAIR GABBERT MOVED THAT THE COMMISSION HAVE THE OPPORTUNITY TO QUESTION THE MEMBERS OF THE PLANNING ACADEMY WHO ARE PRESENT REGARDING THE INTENT OF A PROPOSED AMENDMENT. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION FAILED 3-4 WITH COMMISSIONERS MARX, MALONEY AND VICE CHAIR GABBERT VOTING IN FAVOR AND COMMISSIONERS BRADSHAW, MCAULIFFE, MONROE, AND CHAIR KUHN VOTING IN OPPOSITION. COMMISSIONER PARKER ABSTAINED.

VICE CHAIR GABBERT MOVED THAT THE COMMISSION HAVE THE OPPORTUNITY TO QUESTION THE AUTHOR OF THE PROPOSED AMENDMENT, WHO IS PRESENT, REGARDING ITS INTENT. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION CARRIED 7-1, WITH CHAIR KUHN VOTING IN OPPOSITION.

Proposed Amendment 68

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 68. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 69

COMMISSIONER BRADSHAW MOVED TO ADOPT THE STAFF'S RECOMMENDATION TO DISAGREE WITH PROPOSED AMENDMENT 69. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendments 75 and 105

COMMISSIONER BRADSHAW MOVED TO ADOPT THE STAFF'S RECOMMENDATION DISAGREE WITH PROPOSED AMENDMENTS 75 AND 105. COMMISSIONER MCAULIFFE SECONDED THE MOTION.

Naomi Hardy, 17256 Greenwood Place North, said the association recommended "that the proposed location shall not result in an over concentration of public facilities of a particular use, either in the City or within the neighborhood."

Ken Howe, 745 North 184th Street, said the way the code is written, a single neighborhood could become over concentrated and begin to deteriorate. He said there needs to be language in the code to make sure that over concentration does not occur.

Mr. Stewart said this only refers to uses requiring a special permit such as an oil and gas extraction facility, energy resource recovery facility, landfill transfer station, park and ride lots, etc. If the amendment is accepted, then over concentration could no longer be used as a basis for denial, and staff does not feel this is appropriate. The term "over concentration" is subject to a basic set of definitions.

Mr. Howe said that if the language remains vague, then the community does not have protection, and the neighborhoods are left defenseless.

MOTION CARRIED 7-1, WITH COMMISSIONER MALONEY VOTING IN OPPOSITION.

Proposed Amendment 16

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DISAGREE WITH PROPOSED AMENDMENT 16. COMMISSIONER MARX SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendments 17 and 66

COMMISSIONER MARX MOVED TO ACCEPT PROPOSED AMENDMENTS 17 AND 66 AS RECOMMENDED BY STAFF. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 18

COMMISSIONER MARX MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENT 18. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 70

COMMISSIONER MARX MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENT 70. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 71

COMMISSIONER MONROE MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DENY PROPOSED AMENDMENT 71. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED 7-1, WITH VICE CHAIR GABBERT VOTING IN OPPOSITION.

Proposed Amendment 72

COMMISSIONER MONROE MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE FOR PROPOSED AMENDMENT 72. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendments 74 and 104

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENTS 74 AND 104. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 117

Mr. Stewart said that because staff feels that the intent of these amendments was addressed by another part of the code, it would be redundant to recommend approval.

Commissioner Monroe inquired if the reference to the term "variance" in these two amendments applies to staff allowed variances or those that must come before the Planning Commission. Ms. Koloušek said it is specifically stated that the findings must be provided in writing for both Type A and Type B variances.

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENT 117. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED 7-1, WITH COMMISSIONER BRADSHAW VOTING IN OPPOSITION.

Proposed Amendments 118 and 132

COMMISSIONER MONROE MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE REGARDING PROPOSED AMENDMENTS 118 AND 132. COMMISSIONER PARKER

SECONDED THE MOTION. MOTION CARRIED 7-1, WITH COMMISSIONER BRADSHAW VOTING IN OPPOSITION.

Proposed Amendment 131

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE FOR PROPOSED AMENDMENT 131. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED 7-1, WITH COMMISSIONER BRADSHAW VOTING IN OPPOSITION.

Proposed Amendment 119

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE REGARDING PROPOSED AMENDMENT 119. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 133

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE FOR PROPOSED AMENDMENT 133. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 19

COMMISSIONER MONROE MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO DENY PROPOSED AMENDMENT 19. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendments 127 and 130

Commissioner Marx inquired why staff has recommended denial of these two amendments. Ms. Koloušek answered that engineering variances are recommended in the draft as Type A. Type A decisions must be based strictly on standards. There can be no subjective judgment. Staff recommends denial of Proposed Amendments 127 and 130 because Type A decisions have to have findings to document that the variance would comply with all the technical standards applicable to the particular proposal, and these standards are not in place yet. They will be discussed a part of Phase II.

Commissioner Monroe questioned why this amendment could not be approved now rather than waiting until January. He said he is concerned that some of the issues that are being postponed may likely fall through the system.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF DENIAL FOR PROPOSED AMENDMENTS 127 AND 130. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED 6-2, WITH COMMISSIONERS PARKER AND MCAULIFFE VOTING IN OPPOSITION.

Proposed Amendments 106, 107, 108, 109, 147, 148 and 149

Ms. Koloušek noted that the City is automatically required to review all cumulative impacts under SEPA. Therefore, there is no reason to add this specifically to each of these sections.

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR NO CHANGE REGARDING PROPOSED AMENDMENTS 106, 107, 108, 109, 147, 148 AND 149. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 171

Commissioner Monroe inquired if the glossary includes a definition for the term "qualified person." Mr. Stewart said the proposal is to change it from "designated person" to "qualified person." Staff disagrees with the proposed amendment because it could confuse the issue of who the responsible party is. There may be more than one qualified person who could claim the authority to make a decision if this amendment is approved.

COMMISSIONER MONROE MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF DENIAL FOR PROPOSED AMENDMENT 171. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 172

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENT 172. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 58

Mr. Stewart clarified that staff does not disagree with the proposed amendment. They feel that it is critical and a central part of the new design standards that are now being developed. Therefore, staff asks that this amendment be considered as part of Phase II of the design code review.

Commissioner Bradshaw inquired if the proposed amendment would eliminate the opportunity for narrow, deep lots. Ms. Koloušek said that in most suburban jurisdictions, a 50-foot radius is adequate for constructing a building footprint on irregular-shaped lots or lots that have critical areas. Commissioner Bradshaw expressed concern that if the minimum lot width is 50 feet, then a lot that is 50-feet wide and 140-feet deep could be constructed.

COMMISSIONER BRADSHAW MOVED TO NOT ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL AND ADOPT PROPOSED AMENDMENT 58 AS PRESENTED. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION FAILED BY A VOTE OF 3-5 WITH COMMISSIONERS BRADSHAW, MONROE AND MALONEY VOTING IN FAVOR; AND, COMMISSIONERS KUHN, GABBERT, MCAULIFFE, MARX AND PARKER VOTING IN OPPOSITION.

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR PROPOSED AMENDMENT 58. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED 7-1, WITH COMMISSIONER BRADSHAW VOTING IN OPPOSITION.

Proposed Amendment 59

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION REGARDING ALL PROPOSED AMENDMENTS THAT RELATE TO ATTACHMENT C. MOTION FAILED FOR LACK OF A SECOND.

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF DENIAL REGARDING PROPOSED AMENDMENT 59. COMMISSIONER PARKER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY BY A VOTE OF 7-1 WITH COMMISSIONER BRADSHAW VOTING IN OPPOSITION.

Proposed Amendments 63, 64, 78, 79, 80, 81 and 111

It was noted that the intent of these seven amendments would be addressed as part of Phase II of the development code review.

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF D-3 FOR PROPOSED AMENDMENTS 63, 64, 78, 79, 80, 81 AND 111. COMMISSIONER BRADSHAW SECONDED THE MOTION.

Commissioner Marx recalled that a lot of discussion regarding the design standards centered on the percentage of impervious surface. Because the minimum lot size will be increased, she felt it would be reasonable to keep a similar area of impervious surface as is allowed in the existing code. However, she said she is willing to wait on this discussion until the Phase II discussion.

Commissioner Marx said she would be in favor of recommending approval of the proposed amendments relating to the 35-foot height limit now. She noted that this has already become part of the Comprehensive Plan. Mr. Stewart advised that since these proposed amendments were not advertised as a subject of the public hearing and were not discussed in the staff report, it would be inappropriate for the Commission to consider them at this time. He further explained that these amendments are not related to the design element review. He recalled that the Commission's recommendation was to change the minimum lot size to 7,200 square feet with a maximum of four dwelling units per acre, but this has not yet been approved by the City Council. A moratorium is only in effect until the end of January 2000. That is why staff felt it would be appropriate to get this provision permanently adopted into the code.

Mr. Stewart clarified that the underlined portions of Attachment C indicate the recommended changes. The public hearing was not advertised to include portions that were not underlined. He added that staff does not disagree that this issue is a valid concern, but that this is not the appropriate time to consider the matter.

MOTION CARRIED.

Proposed Amendment 112, 113, 114, 115, 116, 141, 142, 143, 144, 145, 173, 174, 65, 73, 96 and 150

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF D-3 FOR PROPOSED AMENDMENTS 112, 113, 114, 115, 116, 141, 142, 143, 144, 145, 173, 174, 65, 73, 96 AND 150. COMMISSIONER MCAULIFFE SECONDED THE MOTION. MOTION CARRIED 7-1.

Proposed Amendment 175

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENT 175. VICE-CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 60

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENT 60. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION CARRIED 7-1, WITH COMMISSIONER BRADSHAW VOTING IN OPPOSITION.

Proposed Amendments 176

COMMISSIONER PARKER MOVED TO ACCEPT THE STAFF'S RECOMMENDATION FOR DENIAL OF PROPOSED AMENDMENT 176. VICE CHAIR GABBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 20 and 21

Ms. Koloušek informed the Commission that the City currently has a contract with Code publishing, who instructed staff that they should not reformat the code. The contractor indicated that through their codification, they will be able to provide all of the required cross-referencing. Each section in every chapter will be codified. In light of the information from staff, Commissioner Bradshaw withdrew his Proposed Amendment 21.

VICE CHAIR GABBERT MOVED TO ACCEPT THE STAFF'S RECOMMENDATION OF NO CHANGE FOR PROPOSED AMENDMENT 20. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Proposed Amendment 32

Commissioner Marx reminded the Commission that they deferred Proposed Amendment 32 to the City Attorney for further clarification. Commissioner Bradshaw recalled that this proposed amendment was related with the term "adverse possession." Commissioner Marx suggested that the term "contrary to the interest of the owner of record" be added to this definition.

Mr. Sievers said there are two statutes that both define adverse possession, and both have different elements. Case law has lumped some together, as well. It is difficult to combine the statutes with the common law. He said his proposed definition read "the right of an occupant to require title to a property against the recorded title holder according to the doctrine of adverse possession under state law."

Shoreline Planning Commission Minutes
October 21, 1999 Page 12

Commissioner Bradshaw expressed his concern that the concept of "adverse" should be included in the definition.

Mr. Sievers explained that the purpose of this section is to take title from the record titleholder pursuant to the doctrine of adverse possession. He agreed that it has to be an adverse situation that is contrary to the interest of the true property owners.

Mr. Sievers said the City should refer to the doctrine included under state law. He advised that the City has not used the term "adverse possession" in their regulations. Therefore, it is not a defined term and should be removed.

COMMISSIONER PARKER MOVED TO DELETE THE TERM "ADVERSE POSSESSION" FROM THE CODE. COMMISSIONER MONROE SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Mr. Stewart requested that the Commission provide their feedback as to the effectiveness of the process that was used to review the proposed amendments, and identify any changes before they begin their work on Phase II.

Chair Kuhn suggested that all of the amendments for Phase II be numbered according to the order they appear in the existing code. That would allow the Commission to move through the sections of the code in order and discuss one subject at a time. Mr. Stewart said staff could probably do that, but there would have to be an internal control number given to each amendment as it is received. When the amendments are organized for presentation to the Commission, they could be placed in order by section. It was also suggested that when there are multiple amendments on the same page, they should be copied and assigned a separate number.

The Commission asked that the matrix include a more extensive note system so that the Commission is clear as to staff's basis for making a recommendation. Mr. Stewart said a member of the Planning Academy suggested is that they use a finer gradient for staff recommendations associated with Phase II. This could include a clear neutral position, agree, disagree, strongly agree and strongly disagree. The Commission agreed that they would like to have more information from staff to support their reasons for disagreeing with proposed amendments.

Commissioner Bradshaw inquired if there would be a committee of the Planning Commission formed to work with staff to develop the documentation for Phase II. Mr. Stewart said staff would like to review the initial document in Commission workshops.

COMMISSIONER PARKER MOVED TO RECOMMEND APPROVAL OF PHASE I OF THE DEVELOPMENT CODE, AS AMENDED, TO CITY COUNCIL. COMMISSIONER BRADSHAW SECONDED THE MOTION. MOTION CARRIED WITH COMMISSIONERS BRADSHAW, PARKER, MCAULIFFE, MARX, MALONEY, MONROE, CHAIR KUHN AND VICE CHAIR GABBERT ALL VOTING IN FAVOR.

10. NEW BUSINESS

There were no new business items scheduled on the agenda.

11. AGENDA FOR NEXT MEETING

The Commission discussed that the issue regarding card rooms would be on the October 28, 1999 agenda. Mr. Stewart noted that there are a number of meetings coming up before the end of the year. If they are diligent, they may be able to eliminate the special meeting of November 9. On November 4, they will deal with a contract rezone for Shoreline Village as well as the Aurora Corridor CIP amendment.

Chair Kuhn suggested that the Commission consider reviewing the more lengthy documents at the staff office rather than asking for individual copies. He specifically noted the significant cost involved with copying large documents.

Commissioner Monroe said there has been no bibliography provided for the reports that were referenced in the card room documentation. If he had the citations, he could understand what items he would like to review further. Mr. Stewart said that the City Council Report did include citations for the references.

12. ADJOURNMENT

The meeting was adjourned at 9:24 p.m.



Dan Kuhn
Chair, Planning Commission



Suzanne M. Kurnik
Clerk, Planning Commission

CHAPTER III – PROCEDURES AND ADMINISTRATION

(This portion of the Summary Table is for information only, not subject to Planning Commission review.)

CODE PAGE #	LOG REF #	AMEND. #	DESCRIPTION OF AMENDMENT	NAME OF PROPONENT(S)	STAFF REC.	PC REC.	COUNCIL DEC
44	077	59	Change Variances from Engineering Standards from Type A to Type C.	Patricia Peckol	SD (1)	N/A	
	078			Ginger Botham			
45	079	60	Adopt State Historic Building Code.	Ken Howe	D (2)	N/A	
45	080	61	Give examples when neighborhood meeting waived by Director.	Barbara Guthrie	A (3)	N/A	
47, 58-64	081	62	Add Type C actions: Neighborhood Plan, Subarea Plan plus criteria.	Peter Schwindt	SA (4)	N/A	
	082			Patricia Peckol			
	083			Ginger Botham			
47 & 48	084	63	Change Development Agreement to Type C.	Patricia Peckol	A	N/A	
	085			Ginger Botham			
48	086	64	Remove "usually" in first paragraph.	Naomi Hardy	A	N/A	
	087		Use "shall" instead.	Barbara Guthrie			

- (1) See Planning Commission recommendation to the City Council.
- (2) Was not subject to Phase I or II. May be included as Phase III.
- (3) Changed in Phase I.
- (4) Phase III.

CODE PAGE #	LOG REF #	AMEND. #	DESCRIPTION OF AMENDMENT	NAME OF PROONENT(S)	STAFF REC.	PC REC.	COUNCIL DEC
48 & 50	088	65	Add language to guarantee public notice of amendment deadline for Comp Plan.	Patricia Peckol	D (1)	N/A	
	089			Ginger Botham			
48, 63-64	090	66	Delete all references to Development Agreement from Code.	Patricia Peckol	A	N/A	
	091			Ginger Botham			
	092			Peter Schwindt			
49	093	67	Require neighborhood meeting for short plat, and short plat plus rezone. Allow comments for both.	Patricia Peckol	D (2)	N/A	
	094			Ginger Botham			
49	095	68	City to provide list for free neighborhood meetings.	Patty Hale	D (3)	N/A	
50 & 63	096	69	Any citizen or property owner of Shoreline may initiate amendments to Code.	Patricia Peckol	D (4)	N/A	
	097			Ginger Botham			

- (1) Was discussed in Phase I, will be part of Phase III.
(2) Short plat is Type B not Type A and public comments and appeal process apply.
(3) Will do, but not a Code issue.
(4) Was discussed in Phase I and recommended by Planning Commission, as stated.

CODE PAGE #	LOG REF #	AMEND. #	DESCRIPTION OF AMENDMENT	NAME OF PROONENT(S)	STAFF REC.	PC REC.	COUNCIL DEC
51	098	70	Remove "if any" to e.B.7.	Patricia Peckol	D (1)	N/A	
	099			Ginger Botham			
52	100	71	Clearly state Optional consolidated Permit Process and explain it on public notice.	Patricia Peckol	A	N/A	
	101			Ginger Botham			
54	102	72	Add wording to 5.b).	Patricia Peckol	A	N/A	
	103			Ginger Botham			
54	104	73	Postings of public hearings at Police Neighborhood Centers and libraries.	Patty Hale	N	N/A	
59	105	74	Add "Engineering or" wording to 8.	Patricia Peckol	A	N/A	
	106			Ginger Botham			
61	107	75	Remove concept of "contract rezone" from Code.	Patricia Peckol	A	N/A	
	108			Ginger Botham			
	109			Peter Schwindt			
63	110	76	Move Development Agreement section from Type L to Type C.	Patricia Peckol	A	N/A	
	111			Ginger Botham			

(1) Sometimes (rarely) there is no public comment period required – for example, DNS without any mitigation.

CODE PAGE #	LOG REF #	AMEND. #	DESCRIPTION OF AMENDMENT	NAME OF PROponent(S)	STAFF REC.	PC REC.	COUNCIL DEC
	112-113		Moved to Clerical/Technical section				
67	114	77	Add "or on arterial streets" to 8f.B.2.	Patricia Peckol	D (1)	N/A	
	115			Peter Schwindt			
	116			Ginger Botham			
68	117/119	78	Clarify meaning of "reviewed in the same manner" and "new application" wording in g) A & B.	Patricia Peckol	SA (2)	N/A	
	118/120			Ginger Botham			
69	121	79	Change "for five years" with two years, like vested status section.	Peter Schwindt	D (3)	N/A	
	122			Patricia Peckol			
	123			Ginger Botham			
71	124	80	Include section to evaluate cumulative environmental impact of new development; specify threshold criteria based on cumulative impact.	Patricia Peckol	N (4)	N/A	
	125			Ginger Botham			
	126			Peter Schwindt			

- (1) Majority of streets in the City are arterial streets. (Please note, that we added the consistency with the Code).
(2) Change to "as a new application".
(3) Legal: RCW 58.17.150(1) and (3) clearly states 5 years.
(4) Adopted by reference. Example: WAC 197-11-33(c)

CODE PAGE #	LOG REF #	AMEND. #	DESCRIPTION OF AMENDMENT	NAME OF PROONENT(S)	STAFF REC.	PC REC.	COUNCIL DEC
76	127	81	Explain "Planned Action" and "Planned Action Ordinance".	Patricia Peckol	N (1)	N/A	
	128			Ginger Botham			
82	129	82	Move Development Agreement/Urban Planned Development back into Type C.	Patricia Peckol	A	N/A	
	130			Ginger Botham			
85	131	83	Remove Code Enforcement section from the Development Code or relate the code enforcement development issues only.	Ginger Botham	SD (2)	N/A	
	132			Patricia Peckol			
	133			Peter Schwindt			

(1) WAC adopted by reference. See WAC 197-11.

(2) Code enforcement is appropriate in the Development Code because it typically involves the enforcement of regulations.

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Public Hearing to approve Ordinance No. 229, which extends Ordinance No. 207 on the 7,200 Square Foot Lot Subdivision for 180 days (*agenda item not necessary if Council approves Development Code Phase I*)
DEPARTMENT: Planning and Development Services
PRESENTED BY: Tim Stewart, Director *REM for this*

EXECUTIVE / COUNCIL SUMMARY

This item is to extend the "Lot size Moratorium" for 180 days. Action on this item is required only if your Council does not take action on the Development Code – Phase I at this meeting. If your Council adopts the development code, then the need for extending the lot size moratorium is cancelled by the new code requirements that permanently adopt the 7,200 square foot minimum lot size. This item is intended as an optional backup action that would extend the present moratorium another 180 days or until your Council adopts the new Development Code – Phase I.

Your Council originally adopted Ordinance No. 170 on September 23, 1998 which instituted a six month moratorium on the creation of building lots smaller than 7,200 square foot area in the R-4 and R-6 zones. Your Council adopted Ordinance No. 192 on March 22, 1999 which extended Ordinance No. 170 for 180 days. On September 13, 1999 your Council adopted Ordinance No. 207 which extended the moratorium until March 22, 2000. Because your Council will not be holding its next regular (action) meeting until March 27, 2000, it will be necessary for your Council to act to extend the moratorium should you not take action on the Development Code – Phase I tonight.

RECOMMENDATION

Staff recommends that your Council hold a public hearing and adopt City Ordinance No. 229, extending a 180 day moratorium on the filing, acceptance or approval of applications for the development of land within the R-4 and R-6 residential zones that would create building lots less than 7,200 square foot in area. This moratorium would remain in effect until it is either, repealed by the adoption of permanent development regulations, or, expires 180 days after the expiration of Ordinance No. 207.

Approved By: City Manager LB City Attorney 

ATTACHMENT

Attachment A: City Ordinance No. 229

ORDINANCE NO. 229

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, EXTENDING A MORATORIUM FOR SIX MONTHS ON THE FILING, ACCEPTANCE OR APPROVAL OF ANY APPLICATIONS FOR THE SUBDIVISION OF LAND WITHIN THE R-4 AND R-6 RESIDENTIAL ZONES WHICH WOULD RESULT IN THE CREATION OF ANY LOT CONTAINING LESS THAN 7,200 SQUARE FEET IN AREA

WHEREAS, on September 13, 1999, the City Council adopted City Ordinance No. 207, extending for six months an existing moratorium on the creation of building lots less than 7,200 square foot in area in the R-4 and R-6 residential zones; and

WHEREAS, a public hearing was held February 28, 2000 to take public comment on extending this moratorium; and

WHEREAS, in accordance with the requirements of the Growth Management Act (RCW 36.70A), the City Council adopted the City of Shoreline Comprehensive Plan on November 23, 1998; and

WHEREAS, under the provisions of the Growth Management Act the City is required to adopt development regulations implementing the City of Shoreline Comprehensive Plan; and

WHEREAS, the City has initiated a public outreach and planning process for the production of new land development regulations; and,

WHEREAS, new regulations governing the submission and review of land use applications are being debated by the City Council but are not ready or scheduled for adoption; and,

WHEREAS, the production of new development regulations requires the City to continue regulating land use applications under the development standards of the interim zoning code (Title 21A of the King County Code, adopted on June 26, 1995 by City Ordinance No.11) until the review and adoption process is completed; and

WHEREAS, policy provisions of the City of Shoreline Comprehensive Plan support new residential development that is compatible with existing neighborhoods; and

WHEREAS, existing land use regulations do not provide development standards that require the integration of new residential development with existing neighborhoods; and

WHEREAS, the acceptance of development applications proposing the creation of residential building lots of less than 7200 square feet in area will potentially impose significant harm on the City by allowing land that is available for new residential development to be subdivided and developed in a manner that is incompatible with existing neighborhoods; and

WHEREAS, a further six month extension of the present moratorium on certain subdivision activities will allow the City to preserve planning options and prevent a substantial change in the character of the City until the final adoption of new development regulations that implement the Shoreline Comprehensive Plan; and

WHEREAS, the density level resulting from the creation of lots smaller than 7200 square feet in the R-4 and R-6 zones potentially conflicts with the Shoreline Comprehensive Plan Goals for public safety and public services (e.g. schools, emergency services, roadways, utilities); and

WHEREAS, the continued development of lots smaller than 7200 square feet in the R-4 and R-6 zones may make the effective protection of environmentally sensitive areas more difficult under both existing and future land development regulations; and

WHEREAS, the continued creation of such lots may be inconsistent with the City of Shoreline Comprehensive Plan goals for orderly growth and harmonious development; and,

WHEREAS, the City Council has determined that the integrity of existing land uses, the Comprehensive Plan, and the State Growth Management Act planning process may suffer significant harm unless the moratorium preventing the creation of residential building lots smaller than 7200 square feet in area in the R-4 and R-6 zones is extended; and

WHEREAS, the Responsible Official for SEPA adopted the SEPA Determination for the Consolidated Development Code and Engineering Development Guide that proposes a 7,200 square foot minimum lot size in R-4 and R-6 zones for the SEPA review on the moratorium;

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

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

Section 2. Moratorium Extended. The moratorium adopted in Ordinance No. 170, and extended by City Ordinance No. 192 and by City Ordinance No. 207, prohibiting the filing, acceptance, or approval of any application for the subdivision of land in the R-4 and R-6 zones which would result in the creation of any building lot of less than 7200 square feet in area, is hereby extended for a period of 180 days.

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

Section 4. Effective Date. This Ordinance shall be effective immediately upon the expiration of the moratorium established by Ordinance No. 207, and shall thereafter continue in effect for 180 days, unless repealed before the end of this period.

Section 5. Publication. The summary of this ordinance is approved as a summary of this ordinance for publication in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON FEBRUARY ____, 2000

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Ordinance No. 227, Rezone of Property Owned by Majid Dorriz from Residential - 6 Units/Acre to Residential - 12 Units/Acre
Property is Located at 15282 Dayton Avenue North
File # 1999-01170

DEPARTMENT: Planning and Development Services

PRESENTED BY: Tim Stewart, Director *Tim Stewart*
Paul MacCready, Planner II

EXECUTIVE/COUNCIL SUMMARY

The decision before your Council is approval of Ordinance No. 227 (Attachment I) for a reclassification of property (rezone) proposed by Majid Dorriz. If approved, the property located at 15282 Dayton Avenue N. would be reclassified from R-6, Residential-6 units/acre to R-12, Residential 12 units/acre (See Attachment I, Exhibit B for a zoning map.) The rezone would be consistent with the newly adopted Comprehensive Plan which designates the land as Medium Density Residential (R-8 to R-12).

The application was determined to be complete on August 10, 1999. No SEPA Determination was required for this application. A public hearing before the Planning Commission was opened and closed on January 6, 2000. No exhibits were submitted at the hearing.

The Planning Commission Report and Recommendation to the City Council (Attachment I, Exhibit A) contains findings of fact and conclusions considered by the Planning Commission. By a vote of 7 – 2, the Planning Commission recommended approval of the zoning reclassification without conditions. Public testimony, heard during the Public Hearing, is included in the minutes for your reference (Attachment II).

Your Council is the final decision making authority for approval or denial of the proposed rezone. Because an open record public hearing was previously conducted before the Planning Commission, your Council's review must be based upon the written record. No new testimony may be heard.

RECOMMENDATION

Both the Planning Commission and staff recommend that your Council adopt Ordinance #227 approving the Reclassification of Property of the subject property, subject to the findings of fact and conclusions.

Approved By: City Manager

LB

City Attorney

[Signature]

ATTACHMENTS

Attachment I

Ordinance No. 227, including exhibits

Attachment II

Planning Commission Minutes, January 6, 2000

Attachment III

Comprehensive Plan Land Use Designation Map

ORDINANCE NO. 227

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S ZONING MAP TO CHANGE THE ZONING OF A PARCEL LOCATED AT 15282 DAYTON AVENUE N. FROM R-6 TO R-12

WHEREAS, the subject property, legally described as Lot 27, Wallis Country Club Tracts, according to the plat filed in Volume 35 of plats, Page 43, in King County Washington, has a land use designation on the Comprehensive Plan Map of Medium Density Residential; and

WHEREAS, owners of the property have applied to rezone the above property from R-6 to R-12. The Planning Commission considered the application for zone change at a public hearing on January 6, 2000, and has recommended approval; and

WHEREAS, the City Council reviewed the recommendations of the Planning Commission and determined that the proposed amendment should be approved to provide residential development to accommodate growth consistent with the State of Washington Growth Management Act (RCW Ch. 36.70A); now therefore,

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

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

Section 2. Amendment to Zoning Map. The official zoning map of the City of Shoreline adopted by Ordinance No. 125, is hereby amended to change the zoning classification of that certain property described and depicted in Exhibit B attached hereto, from R-6 to R-12. Nothing in this ordinance shall limit the Shoreline City Council from amending, modifying, or terminating the land use designation adopted by this ordinance.

Section 3. Severability. If any provision of this ordinance or the application of a provision to any person or circumstance, is declared invalid, then the remainder of this Covenant, or the application of such provision to other persons or circumstances, shall not be affected.

Section 4. Effective Date. This ordinance shall go into effect five days after passage.

PASSED BY THE CITY COUNCIL ON FEBRUARY 28, 2000

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli
City Clerk

Ian Sievers
City Attorney

Date of Publication: _____, 2000
Effective Date: _____, 2000

EXHIBIT A

Commission Meeting Date: January 6, 2000

PLANNING COMMISSION FINDINGS AND RECOMMENDATION CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: REZONE DORRIZ PROPERTY FROM RESIDENTIAL 6-UNITS PER ACRE (R-6) TO RESIDENTIAL 12-UNITS PER ACRE (R-12) AT 15282 DAYTON AVENUE N.
File # 1999-1170

After reviewing and discussing the Reclassification of Property at a public hearing on January 6, 2000, and considering the testimony and written comments presented, the Shoreline Planning Commission makes the following Findings, Conclusions and Recommendations to the City Council.

SUMMARY INFORMATION

Project Address:	15282 Dayton Ave. N.
Property Size:	17,465 square feet
Current Zoning:	Residential – 6 units per acre (R-6)
Proposed Action:	Reclassification of Property (Rezone) to Residential - 12 Units Per Acre (R-12)
Comprehensive Plan Designation:	Medium Density Residential
Application Number:	1999-1170
Applicant:	Majid Dorriz
Property Owner:	Majid Dorriz
Public Hearing Date:	January 6, 2000

I. PROPOSAL:

The proposed reclassification of property located at 15282 Dayton Avenue N would rezone the existing Residential-6 units per acre (R-6) zone to Residential-12 units per acre (R-12). The subject property is located on the southeast corner of Dayton Avenue and N. 155th Street. This rezone is necessary for the applicant to subdivide his parcel into four lots. The applicant proposes to construct four new single family homes on the lots. The application was submitted by Majid Dorriz, owner of the property, on June 22, 1999 and determined to be complete on September 27, 1999. The zone proposed by the applicant complies with the density guidelines for development in the Medium Density Residential Land Use Designation as stated in Shoreline's Comprehensive Plan. After City Council reaches a decision on the rezone, if approved, staff will conduct a review of the proposed short plat. The City will make an administrative decision to approve or deny the short plat. The City may also impose specific development conditions. The final decision on the short plat may be appealed to the Hearing Examiner.

II. FINDINGS:

1. Project Site

- 1.1 The subject property is approximately 2/5 of an acre in area, 65 feet wide and about 270 feet long.
- 1.2 One single family home, a carport, and an accessory building are now situated on the property.
- 1.3 The proposal requires demolition of the buildings.
- 1.4 Several large trees are located on the west side of the property.
- 1.5 The site gently slopes down to the northeast at approximately 2 percent.

2. Neighborhood

- 2.1 The subject property is in the Highland Terrace Neighborhood on the southeast corner of Dayton Avenue N. and N. 155th Street.
- 2.2 Dayton Avenue is classified as a collector arterial; 155th Street, a sub-access residential street.
- 2.3 Single family housing surrounds the site, except to the north where the Washington Department of Transportation office building is located.

3. Comprehensive Plan

- 3.1 The Shoreline Comprehensive Plan has established a growth target of 1,600-2,400 new housing units during the 20-year planning period.
- 3.2 The Comprehensive Plan Land Use Designation Map identifies the subject lot as Medium Density Residential. The current residential density of 2.5 units per acre indicates the site is underutilized and is not consistent with the density goals of the

Comprehensive Plan. The Comprehensive Plan stipulates that Medium Density Residential areas may be redeveloped with single family detached dwelling units at slightly higher densities than Low Density Residential areas.

4. Zoning

4.1 The designated zone for the subject property is Residential-6 units per acre (R-6).

4.2 The R-6 zone is not consistent with the Comprehensive Plan's Medium Density Residential land use designation. The reclassification of the zone to R-12 would bring the property into compliance with the Comprehensive Plan.

III. ANALYSIS/ ISSUES:

1. Density

A density of 10 units per acre would be created by the subdivision. This density complies with the density goals specified for the Residential Medium Density land use designation.

2. State Environmental Policy Act (SEPA).

SEPA review is not required for a reclassification of property if the action complies with the Comprehensive Plan. The action is understood to be included with the Comprehensive Plan's Environmental Impact Statement (EIS).

3. Adequacy of water and sewer services.

An approved Certificate of Water Availability was received from the Shoreline Water Department. An approved Certificate of Sewer Availability was received from the Shoreline Wastewater Management District.

VI. CONCLUSIONS:

1. The proposed rezone to permit the short subdivision is in conformance with the Shoreline Comprehensive Plan and the Washington State Growth Management Act.
2. The proposed development is an appropriate land use for the subject property and is consistent with the character of the neighborhood.
3. The proposal will provide adequate public facilities and services to the building and will not degrade from the level of service provided to neighboring properties.
4. The proposed development will assist the City of Shoreline in meeting its housing production targets as established by King County to meet our obligation under the Growth Management Act.

V. RECOMMENDATION:

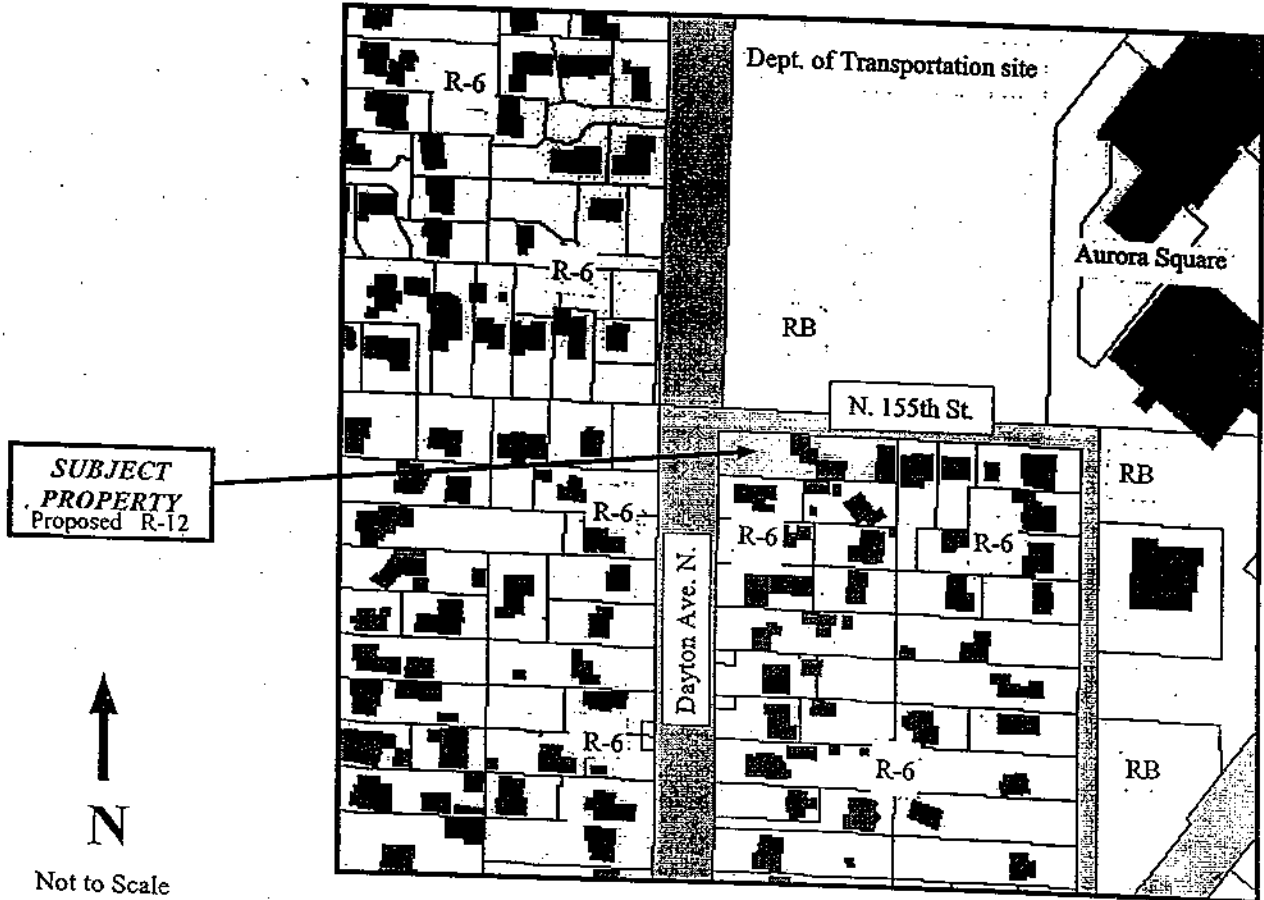
The Planning Commission recommends that the Reclassification of Property (rezone) from Residential 6-units per acre to Residential 12-units per acre be approved.

Dan Kuhn
Dan Kuhn, Planning Commission Chair

1/31/00
Date

EXHIBIT B

ZONING MAP AMENDMENT



15282 Dayton Avenue N.

ZONING KEY

R-6	Residential – 6 Units Per Acre
R-12	Residential – 12 Units Per Acre
RB	Regional Business

These Minutes Approved
January 20, 2000

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

January 6, 2000
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

Chair Kuhn
Vice Chair Gabbert
Commissioner McAuliffe
Commissioner Monroe
Commissioner Marx
Commissioner Vadset
Commissioner Maloney
Commissioner Bradshaw
Commissioner Parker

STAFF PRESENT

Tim Stewart, Director, Shoreline Planning & Development Services
Paul MacCready, Planner II, Planning & Development Services
Rachel Markle, Senior Planner, Planning & Development Services
Kirk McKinley, Planning Manager, Planning & Development Services

1. CALL TO ORDER

The regular meeting was called to order at 7:02 p.m. by Chair Kuhn, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuhn, Vice Chair Gabbert, McAuliffe, Monroe, Marx, Bradshaw, Maloney, Parker and Vadset.

3. APPROVAL OF AGENDA

The Commission accepted the agenda as presented.

4. APPROVAL OF MINUTES

COMMISSIONER MARX MOVED TO ACCEPT THE MINUTES OF DECEMBER 2, 1999 AS SUBMITTED. COMMISSIONER MALONEY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

5. PUBLIC COMMENT

Ginger Botham, 16334 Linden Avenue North, said that at the last meeting there was some discussion regarding the distinction between a driveway and a commercial road for an apartment complex. She recalled that the code for multi-family development requires one-way roads of 20 feet, and the proposed project only provides 16-foot roads. She suggested that as the Commission considers the next phase of the development code review, they should clarify the definitions for roads, driveways, commercial, multi-family, etc.

6. REPORTS OF COMMISSIONERS

Commissioner Bradshaw announced that he will resign from the Commission at the end of March.

7. STAFF REPORTS

Tim Stewart, Director of Planning and Development Services referred the Commission to three documents that were delivered tonight. One is an appeal the City received on the Elena Lane proposal. It was filed by the applicant and provided to the Commission for their information. The second item is a staff report that was forwarded to the City Council containing the Commission's recommendation relating to the card room regulations. He noted that staff provided the Council with the staff's recommendation to adopt Exhibit A, which is an ordinance that would prohibit new social card rooms. They also provided the Council with Exhibit D, which is an ordinance that would allow new social card rooms with a special use permit as recommended by the Commission. There will be a legislative hearing before the Council on January 10.

Mr. Stewart referred the Commission to the document related to Phase II of the development code, which will be available to the public on January 7, 2000. Copies will be mailed to the Planning Academy participants, as well. He reviewed the contents of the document and explained that staff intends to follow the same procedure as was used for Phase I, with a deadline of January 31, 2000 for amendment proposals.

Chair Kuhn noted that five of the Commissioners' terms end in March and questioned if Phase II would be completed by that time. Mr. Stewart said it is staff's intent that the existing Commission could get the bulk of the work done prior to the end of March. Chair Kuhn recalled how long it took the Commission and staff to get through Phase I of the project, and Phase II is expected to be more controversial.

The Commission continued to discuss their concern that the Phase II review would not be completed before many of the Commissioners' terms expire. Mr. Stewart agreed that this is a concern, and said that after the public hearing, the Commission would have a better idea of how substantial the issues are and how much time will be required. Staff was directed to poll the Commissioners to find out how many would be seeking reappointment to the Commission. Mr. Stewart indicated that staff would have a calendar put together for Phase II by the first meeting in February. Chair Kuhn suggested that the staff consider scheduling at least two contingency meetings to complete the project by March 31, 2000.

Mr. Stewart announced that Kirk McKinley has been promoted to the position of Planning Manager and will be in charge of the division group handling all of the C and L permits. His principal project manager will be Rachel Markle, who has been appointed to the position of Planner III. Bridget Smith has been appointed as the building official leading all of the A and B permits.

8. PUBLIC HEARING

a) Type C Action: Reclassification of Property (Rezone) at 15282 Dayton Avenue North

Chair Kuhn reminded the Commission of the rules regarding the Doctrine of the Appearance of Fairness. He also reviewed the rules of procedure for the public hearing. The public hearing was opened at 7:30 p.m., and Chair Kuhn inquired if any Commissioners received any *ex parte* communication. Commissioner Marx indicated that she received an e-mail from Walt Hagen containing information from Ginger Botham. She provided a copy of the e-mail [marked as Exhibit 1 to *Ex Parte* Statement]. There was no one in the audience who desired to rebut the substance of the *ex parte* communication. Chair Kuhn requested that members of the public not make direct communications with the Commissioners regarding quasi-judicial matters. The public should communicate with the Commissioners through the Commission Clerk.

There was no one in the audience expressing a concern regarding *ex parte* communications on the part of the Commissioners.

Paul MacCready, Planner II, presented the staff report to the Commission. He swore that his information would be true to the best of his knowledge. He emphasized that this public hearing is for the zoning reclassification only, and not a hearing for the short plat. The proposal is to reclassify the existing R-6 zone to R-12. The subject property's land use designation is medium density residential, and the proposal would bring the property into compliance with the City's Comprehensive Plan.

Mr. MacCready noted that a short plat application is a Type B action, which requires an administrative decision. A hearing for the short plat would occur only if the administrative decision is appealed to the Hearing Examiner. A decision on the short plat application cannot be made until after the effective date of the rezone approval. If the rezone is denied, the applicant can either withdraw or revise his short plat application. He emphasized that because short plats are administrative decisions, the Commission cannot consider approval or denial of any facet of the short plat unrelated to the rezone. They can consider density and the possible adverse impacts that the allowed uses in the proposed zone may have on the community. Compliance with specific development standards will be reviewed as part of the short plat process, and conditions may be imposed as a result of that review.

Mr. MacCready reviewed the types of uses that are identified in the Comprehensive Plan for medium density residential land uses, and pointed out that if rezoned to R-12, the maximum number of dwelling units that could be developed on the property would be five. The Comprehensive Plan specifies that R-12 is an appropriate land use designation for medium density residential, and the increased density

would also assist the City in meeting its housing targets as established by King County. Therefore, staff recommends that the zoning classification be approved.

Dan Moehrke, PLS, 6141 Northeast Bothell Way, Kenmore, WA 98155, stated that he is the representative for the applicant. He swore that his testimony would be true. He pointed out that the land use designation in the Comprehensive Plan is R-12. He described the surrounding development, which includes commercial, multi-family and single-family development. The subject property provides an opportunity for the City to create some higher density residential properties that could be a stepping stone for young families between apartments and larger homes. He asked that the Commission support the staff's recommendation for approval of the proposal.

Ginger Botham, 16334 Linden Avenue North, swore that her testimony would be true. She provided copies of her letter that was e-mailed from Clark Elster to Commissioner Marx. [This document was accepted by the Commission as an exhibit and marked Exhibit 2 to the Public Hearing]. She said she is surprised that the Commission can only consider the rezone issue and not issues such as lot line, building footprint, etc. She did not feel that the public notice clearly indicated that the two proposals were separate. Therefore, she requested that the Commission close this public hearing and start over.

Clark Elster, 1720 Northeast 177th Street, affirmed that his testimony would be true. He concurred with Ms. Botham that the public hearing should be stopped and that the public notices should be reissued so that adequate public input can be received.

Frank Peak, 15051 Westminster Way North, affirmed that his testimony would be true. He said his concerns relate to the width of the street and the parking that would be located in an obstructed vision area. He also expressed his concerns related to increased drainage problems. He said the proposal appears to be creating a zone that would only apply to one lot in an entire area. There are no medium density zoning designations to the south, east or west of the subject property. He described his disappointment that the posted sign notice was not visible to cars driving by the property. He concluded that the zoning and proposed development would have adverse impacts to the neighborhood.

CHAIR KUHN CLOSED THE PUBLIC TESTIMONY PORTION OF THE HEARING AT 7:51 PM.

Vice Chair Gabbert recalled Mr. Peak to point-out the sight line safety issue on the vicinity map. Mr. Peak indicated that 155th slopes down fairly rapidly headed east. It then takes a 90-degree turn, with a fence line. Coming north on Fremont, there are frequently cars parked on both sides, and it is difficult to see above the crest of the hill until you are part way up. He concluded that the access point, as proposed, would be unsafe.

Commissioner Maloney inquired about the issue that was raised regarding the inadequacy of the notice. Mr. Stewart answered that staff feels that notice was adequate. Mr. MacCready clarified that the sign was posted in accordance with code requirements. A notice was also published in the newspaper, and the neighbors within 500 feet of the proposed development were notified through the mail.

Commissioner Parker stated he saw the notice sign; the sign was visible; and, he drives that street [Dayton Avenue N] to and from work.

Commissioner Bradshaw inquired if staff has examined the traffic situation—particularly the eight additional automobiles and the sight distance concerns. Chair Kuhn reminded the Commission that they cannot deal with the conceptual plan that was provided with the rezone, but only whether or not the rezone complies with the Comprehensive Plan. Mr. Stewart advised that the issues related to traffic and the area's capacity to accommodate the growth were considered during the process of adopting the Comprehensive Plan. This area is shown in the Comprehensive Plan as medium density residential and an environmental assessment found that the existing systems were capable of accommodating this type of land use. The project specific issues can be dealt with as part of a short plat.

Commissioner Maloney stated he believes that this is a very dangerous situation. Regardless of an analysis that was made sometime ago, four additional driveways and additional cars almost guarantee a very hazardous situation, and proper consideration has not been given to this issue. Chair Kuhn reminded the Commission that mitigation can become part of any short plat approval to address traffic issues that are particular to the proposed project.

Commissioner McAuliffe noted that density is an issue that can be addressed as part of the Commission's rezone review. The Commission discussed the fact that this property was added to the medium density land use designation towards the end of the Comprehensive Plan review. It was pointed out that the development proposal is consistent with what was approved at that time, and the traffic issues will be addressed as part of the short plat application review that will be completed by staff.

Commissioner Monroe expressed his concern that the information that was provided clearly shows that the proposal would not be in character with the neighborhood. Greater densities result in more impervious surfaces and increased flooding. The vault drainage system that is popular is inadequate. He stated that in the very least, the project should be in conformance with the clean water act, and endangered species concerns should be addressed.

Mr. Stewart explained that the City's Comprehensive Plan includes a land use map showing various types of land uses covering the entire City. There is also a zoning map showing zoning designations for that same land. At some point, the zoning map must be amended to be in conformance with the Comprehensive Plan map. However, staff has been reluctant to bring forth the City-wide rezone until the development code is adopted. After the development code is adopted, there will be a City-wide rezone of all parcels that are inconsistent with the Comprehensive Plan, including this parcel. In the interim, Mr. Stewart explained that the applicant has chosen to apply for reclassification to bring the zoning into conformance with the Comprehensive Plan, and that is the basis for staff's recommended approval.

Commissioner Maloney said it appears to him that the subject property is not suitable for a rezone, and the Comprehensive Plan is in error. Mr. Stewart answered that if the Commission believes the Comprehensive Plan was inappropriately approved, there would be an opportunity for the City to correct

the plan during the annual review. However, the adopted Comprehensive Plan has not been appealed and the City is obligated to follow the Comprehensive Plan on quasi-judicial applications.

Commissioner Maloney maintained that if the Commission has a concern regarding density and other issues, they do not have to recommend approval of the rezone. He did not feel the proposed density for the subject property is compatible with the less dense development that surrounds it. Many on the Commission disagreed. Chair Kuhn reminded the Commission that regardless of what the surrounding density is, the City's Comprehensive Plan, until changed, identifies that entire neighborhood as medium density. The majority of the Commission concurred.

The Commission discussed whether or not the impacts that are associated with the rezone request were considered. Mr. Stewart advised that a final environmental impact statement was completed and the conclusion was that the plan was in conformance with the environmental rules and regulations. There was no appeal submitted for either the adoption of the plan or the formal publication of the FEIS.

COMMISSIONER BRADSHAW MOVED TO ACCEPT THE STAFF'S RECOMMENDATION TO RECLASSIFY THE PROPERTY AS R-12. COMMISSIONER VADSET SECONDED THE MOTION.

COMMISSIONER PARKER OFFERED A FRIENDLY AMENDMENT TO THE MOTION TO ACCEPT THE STAFF'S CONCLUSIONS, AS WELL. COMMISSIONER BRADSHAW CONCURRED WITH THE AMENDMENT.

MOTION CARRIED 7-2, WITH COMMISSIONERS MALONEY AND MONROE VOTING AGAINST THE MOTION AND COMMISSIONERS BRADSHAW, PARKER, MCAULIFFE, VADSET, MARX, CHAIR KUHN AND VICE CHAIR GABBERT VOTING IN FAVOR.

CHAIR KUHN CLOSED THE PUBLIC HEARING AT 8:09 PM.

9. UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

10. NEW BUSINESS

There was no new business scheduled on the agenda.

11. AGENDA FOR NEXT MEETING

Mr. Stewart inquired how the Commission would like staff to proceed on the workshop for the development code. Chair Kuhn asked that staff provide a presentation to alert the Commission to what issues will be more controversial than others.

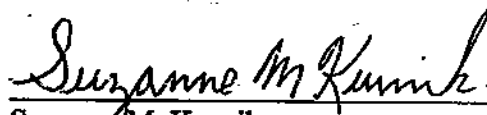
Vice Chair Gabbert inquired if there are any overlay requirements that will become part of Phase II. Mr. Stewart answered that staff has provided specific design standards and criteria for the broadest based districts. But, this does not preclude a future neighborhood plan from being developed to adjust or change the standards in a specific area.

12. ADJOURNMENT

The meeting was adjourned at 8:15 p.m.



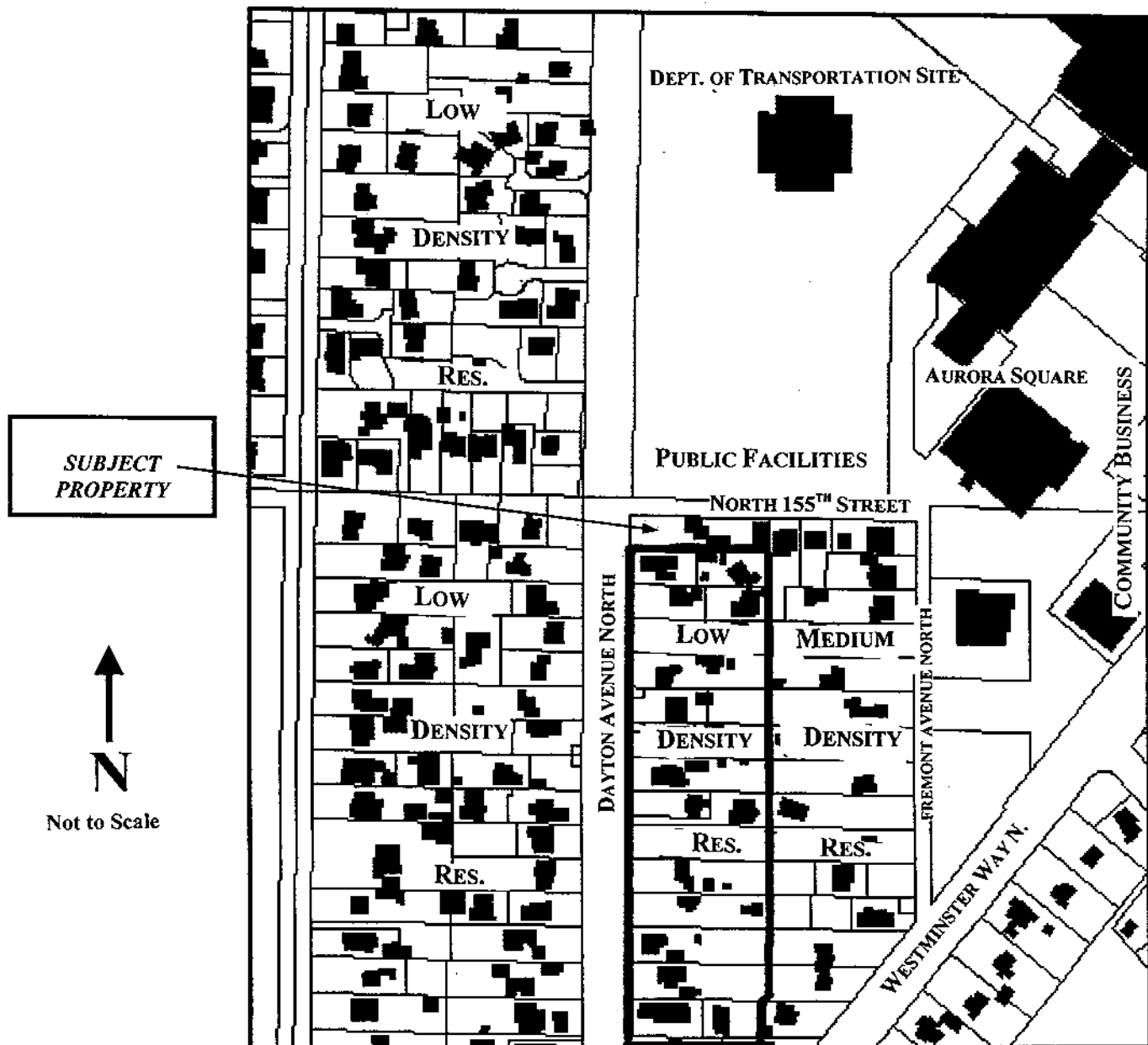
Dan Kuhn
Chair, Planning Commission



Suzanne M. Kurnik
Clerk, Planning Commission

ATTACHMENT III

COMPREHENSIVE PLAN LAND USE DESIGNATIONS



15282 Dayton Avenue North

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Resolution No. 160, Approving The Transfer Of The Cable Television Franchise From Edmonds Cable Company To Tci Cablevision Of Washington
DEPARTMENT: City Managers Office
PRESENTED BY: Kristoff T. Bauer, Assistant to the City Manager

EXECUTIVE / COUNCIL SUMMARY

As discussed with your Council at your February 7, 2000, workshop AT&T (which recently purchased TCI Cablevision of Washington) is in the process of purchasing Chambers Cable (AKA Edmonds Cable Company). Under federal law and the terms of our franchise with Chambers, the City must authorize the transfer of the existing franchise before the transaction can close. The City has until April 14, 2000, to act upon Chambers' request for that authorization. A failure to take action by that date operates as consent to the transfer. Chambers has requested that the City take action prior to March 1 in order to speed the transition process. A resolution consenting to this transfer is presented for Council's consideration (Attachment A).

During the workshop, your Council directed staff to clarify or otherwise address three issues prior to bringing the proposed resolution forward for consideration. These issues include:

1. Whether AT&T's assurance to upgrade their current system in Shoreline by August meant that cable internet service would be available to current Chamber's customers by August as well?
 - **Answer:** In response to our inquiry, AT&T has made two clarifications. First, their previous assurance relates only to the capability of the upgraded system, not what services will actually be provided over that system. Second, that assurance relates specifically to the current AT&T service area, not the Chambers system that they are purchasing. It is AT&T's intention to provide internet services within both service areas, but they have not analyzed the configuration and capabilities of the Chambers system and do not know what it will take to offer that service. (Attachment B)
2. Whether Chambers has paid the correct amount of franchise fees to the City?
 - **Answer:** This issue has two distinct components; a) has Chambers reported its revenues accurately, and b) has Chambers calculated "gross revenues," the basis for the franchise fee, appropriately? It would require a formal audit to address the first component with a high degree of certainty, but Chambers has provided rational explanations for the discrepancies identified by 3H Cable Communications Inc. between their reported revenues and those of other providers in the region. In regards to the second component, Chambers admits that it has not included a

number of revenue sources in its calculation of "gross revenues" that the City believes should be included. Chambers has agreed to pay the City \$30,640.29 in back franchise fees to resolve all issues. (Attachment C)

3. What will it take to implement similar programming on the government channel of both systems?

- **Answer:** The short answer is that it will take about \$45,000 and two months. Since there is currently no interconnection location, i.e. a centralized studio, the government channel signal for each system must originate at the headend locations of each separate system (one in Lake Forest Park, the other in Edmonds). Controlling these two locations from City Hall will require a Master (authoring/scheduling) system connected by modem to duplicate Slave (display) systems at each headend. (Attachment D) The \$45,000 would pay for the equipment, software, and training necessary to make this work. It is estimated to take two months for delivery and installation of the equipment, and for the training of staff and the creation of the initial programming content.

–This system would give the City the ability to control and schedule the playback of taped content (i.e. City and King County Council meetings). It would also give the City the ability to provide text and graphic content, including sound, animation, and Mpeg video, between video programs. This would be similar to a more flexible and dynamic Power Point with sound. The initial implementation of this capability would be very simple, but would improve over time as staff's expertise increases and new content is created.

–Existing staff resources have been identified for this implementation.

–The \$45,000 was not included in the City budget. Existing franchises give the City the option of having the service providers pay for the capital portion of these expenses, ~ \$38,000, and recover the cost through a surcharge on subscriber rate. Staff has not researched the impact of I-695 on this option or the amount of surcharge that would be necessary to recover this cost. Staff can either perform further research on this issue for Council consideration or expend this amount from the current budget with the potential need for a future budget amendment. (note: the back franchise fee payment is revenue that also was not budgeted and could offset this cost)

–All of the equipment purchased can be put to beneficial use in a future centralized studio.

If the responses above address all of your Council's concerns, then a motion adopting the proposed resolution authorizing the franchise transfer is recommended (Attachment A). An expression of consensus is sufficient if your Council would like staff to move forward with implementing the proposed improvements in the operation of the government channels.

RECOMMENDATION

Move to adopt Resolution No. 160, approving the transfer of the cable television franchise from Edmonds Cable Company to TCI Cablevision of Washington. Provide staff with consensus for implementing improvements for the government channels.

Approved By: City Manager LB City Attorney JS
per RMR

BACKGROUND / ANALYSIS

As discussed at the February 7, 2000 Council workshop, Your Council's discretion regarding the authorization of this transfer is limited by federal law to the consideration of whether the proposed purchaser has the financial, legal, and technical ability to provide the services, facilities, and equipment required by the franchise agreement. The City has until April 14, 2000, to make this determination. Given that this question regarding AT&T has been answered by the City in the affirmative twice in the last two years (first with the TCI franchise grant and second with the AT&T transfer) it may be difficult for the City to sustain a different determination here. The federal process and the terms of our franchise do require Chambers to provide the City with detailed information regarding the proposed transfer. The 120-day processing time limit, upon which the April 14th deadline is based, can be extended if Chambers has not provided the required information. In addition, the City also has the right to ensure that Chambers is in full compliance with all existing franchise terms prior to consenting to the transfer. For these reasons, this is an appropriate opportunity for the City to address a number of issues regarding cable service within the City and to insure that the City has been provided all the information it needs to evaluate the proposed transfer.

Issues identified and addressed during the workshop meeting include the following:

- **Upgrade (Chambers)** – Chambers' franchise requires that they rebuild their system utilizing fiber optic technology such that it has the capacity to transmitting at least seventy-five (75) video programming choices to Subscribers plus provide an architecture which can support in excess of twenty (20) additional programming options including Internet access. The City has confirmed that the upgrade has been completed as required providing notice to Chambers of that acceptance February 4, 2000.
- **Upgrade (AT&T)** – AT&T is in the process of upgrading its current service area within the City (east of Meridian Ave. N.) and has provided assurances that upgraded service will begin in June 2000 and be completely implemented within that service area by August 12, 2000.
- **Franchise Terms** – AT&T will agree to operate exclusively under the TCI franchise.
- **Interconnection** – Both franchises give the City the ability to require interconnection for Public, Education, and Government channels within 60 days. The City has not made this request, because we lack a studio from which to generate content for these channels. AT&T has provided assurances that this transfer will not degrade the City's ability to accomplish its goals in this area.
- **Basic Rate** – AT&T has provided assurances that it will consolidate service and rates, but timing for that implementation was left uncertain.

Issues identified as needing additional information, clarification, or resolution included the following:

- **Internet Service (consolidated service) Implementation** – The specific question related to when cable internet service will be offered to subscribers within Chambers' current service area, but this concern stems from the ambiguous nature of AT&T's response to the City's request for clarification regarding service consolidation.

- **Franchise Fees** – Staff initiated an investigation in March 1999, requesting detailed financial reports to determine if a formal franchise fee audit was justified to ensure that Chambers is current in its obligation to the City.
- **Government Channel Implementation** – Your Council requested additional information on the resources and time necessary to equalize and improve the programming content on Government channels within both service areas.

These issues are discussed in further detail below.

Internet Service (consolidated service) Implementation

After further discussions with AT&T, they continue to indicate that lack of specific information about the nature of Chambers' system and contractual obligations will not allow them to provide any time estimates for consolidation of services or practices (Attachment B). AT&T's response makes it clear that they are making no statement about when cable internet service will be offered to subscribers within the current Chambers' service area. Both AT&T and Chambers restate their position regarding the City's limited transfer review authority under federal law, discussed above, when pushed on these issues. The City has been given assurances that both service and rates will move toward each other, but no certainty on timing has been provided.

Franchise Fees

This issue has two distinct components; a) has Chambers reported its revenues accurately, and b) has Chambers calculated "gross revenues," the basis for the franchise fee, appropriately?

3H Cable Communications' review of Chambers' revenue reports identified a number of areas where those revenues deviated significantly from similar revenues reported by operators of similar size in the region including, 1) Converter fees, 2) Pay Per View, 3) Premium Service, 4) Digital Service, and 5) total Gross Revenue. Chambers responded to these issues with information about their operations that distinguish them from other operators in the region. For example, their system does not rely on scrambling technology that is reliant on set top converters, nor do they have a breadth of Pay Per View and Premium Service offerings similar to other operators. While these explanations have some plausibility, it would require a formal audit to confirm with a high degree of certainty, that Chambers is reporting revenues appropriately.

In regards to the second component, Chambers admits that it has not included a number of revenue sources in its calculation of "gross revenues" that the City believes should be included. The following table lists these sources and the amount of adjustment required based upon revenue reported by Chambers:

Revenue Line Item	Adjustment
Bad Debt Incurred	(\$997.51)
Home Shopping Channel	\$872.41
Late Fees	\$1,342.60
Franchise Fees	\$29,422.76
Total	\$30,640.29

Chambers has agreed to pay the City \$30,640.29 in back franchise fees to resolve all issues and to assure that these revenue sources will be included in the calculation of future franchise fee payments (See Attachment C).

Government Channel Implementation

Without a central studio location from which to create and cablecast government channel programming, content can only be cablecast from the existing headend locations of both systems. To date, this has been accomplished by having a messenger deliver duplicate VHS tapes of Council meetings to these headends and cable company staff has inserted and started the tapes at pre-arranged times. Chambers has had more flexibility in doing this, because their staff offices are located at their headend in Edmonds. AT&T's headend in Lake Forest Park has no full-time staff. It is about the size of a large walk-in closet. For this reason, they can only send someone to change the tapes once or twice a week resulting in a continuous cycling of these tapes between changes.

Long-term it may be possible to connect the headends together, or to a central studio, by fiber optic cable allowing all of Shoreline to receive the same cablecast on the government channel. Accomplishing this today, however, will require remote programming control equipment, "Display Engines," located at each headend that will can be controlled by a master scheduling system at City Hall via modem. The tapes will still need to be physically delivered to each headend and inserted in the playback decks, but staff at City Hall will be able to control when they play.

PROPOSED SYSTEM

The proposed system (Attachment D) is capable of doing far more than just turning the decks on and off. It actually has very flexible and dynamic character generation (the display of text and graphics) abilities. Staff utilized a competitive bid process to select this system. There are only two products on the market. The provider of the proposed system, Framerate, is relatively new to the market, offering its first product about three years ago, and is about 20% more expensive then its competitor, Scala.

The key difference between two systems is compatibility and resulting flexibility. The Scala system is a stand alone graphics and text creation and scheduling system. Almost everything that it displays has to be written or created on the Scala workstation which has a unique user interface. The workstation itself is a proprietary computer system build specifically to run the Scala software. The result is that all content for the Scala system must be created by staff specifically trained to operate the Scala software sitting in front of the Scala workstation.

In contrast, the Framerate program accepts, organizes, and displays graphics in any standard format (jpeg, gif, bmp) from multiple graphics programs (Coral Draw, Autocad) and standard digital video and sound formats (Mpeg, wav, mp3). For this reason, text, graphics, and actual documents from programs that the City already uses (PowerPoint, Coral Draw, Word, the City web page) can quickly be imported into this system for cablecasting. In addition, it comes installed on a high end, but standard, Dell computer system. The result is that City staff, in all areas of the organization, is already creating content that can be organized and scheduled for display by the Framerate product via the City's existing network.

As your Council is probably aware, over any significant period of operation, spending a few extra capital dollars to save staff time is a good investment. More than this, however, the Framerate system's open compatibility simply gives it the flexibility to adapt to the City's changing needs.

At the City's request, 3H Cable Communications contacted a number of communities utilizing Framerate's system to confirm its functionality, usability, and the company's customer support history. While, due to the youth of this company, each community had only one or two year's experience with the product, all reported complete satisfaction with the product and Framerate's customer support.

The proposed system includes the following equipment and supporting services:

Millenium Authoring Station w/Display Engine	\$16,451
Second Display Engine	\$9,018
Misc. Support Equip.	\$475
Event Controllers (2)	\$2,170
Scan Converters (3)	\$2,349
Signal Monitor	\$335
VHS Playback Decks (2)	\$690
Equipment Sub-total	\$31,488
15 Month Tech. Support	\$3,818
Installation & Training (plus expenses)	\$2,995
Services Sub-Total	\$6,813
Tax	\$3,294
Contingency/Reserve for Expenses (10%)	\$4,159
Total	\$45,754

Once the City creates a central studio, either through the City Hall project or by developing a partnership with other public agencies, this equipment will still play a central role in developing, scheduling, and controlling channel programming. The second Display Engine can either be used to operate a second government channel or an education channel for a partner organization.

BUDGET

As mentioned in the summary, the cost for this system has not been included in the budget. Staff has been working on this project as a low priority since the Cable TV franchises were approved in June 1998 with the intent of bringing a proposal to your Council that included exercising the surcharge option provided by those agreements to cover the capital cost above. The cable companies would actually purchase the equipment under this scenario, so the expenditure would not flow through the City's budget. The proposed system is a small piece of the capital expenditure that will eventually be needed to fully equip a cablecast studio for the City.

In addition, staff has not yet had an opportunity to research whether the surcharge option is impacted by I-695 or to determine what amount of surcharge would be

necessary. As a point of reference, the City currently receives about \$60,000 per quarter in franchise fee revenue.

Staff can either perform further research on the utilization of the surcharge mechanism to finance this expenditure, or, with your Council's concurrence, we can move forward with the purchase and bring forward a budget amendment in the future if necessary.

IMPLEMENTATION

The personnel to manage and provide content for the new system have been identified. Procedures and policies regarding the nature and sources of content, however, have not been developed. If your Council prefers to move forward at this time, then the initial implementation would be very simple consisting of agenda information and Council meeting cablecast start times. Staff would then return to your Council shortly with proposed policies and further implementation planning for your consideration.

Installation can occur as early as 30 days from the issuance of the purchase order, but could take up to two months. Utilizing existing content, the system would be up and running upon installation. Further development of content would take longer and would depend upon further Council direction.

SUMMARY

Staff believes that all issues regarding the proposed franchise transfer have been satisfactorily resolved given the Council's review authority under federal law. Staff plans to implement consistent government channel programming across the entire City are not fully developed, but, if Council would like to move forward, implementation can begin with full development dependent on future discussions with your Council.

RECOMMENDATION

Move to adopt Resolution No. 160, approving the transfer of the cable television franchise from Edmonds Cable Company to TCI Cablevision of Washington. Provide staff with consensus for implementing improvements for the government channels.

ATTACHMENTS

Attachment A – Resolution No. 160, Approving The Transfer Of The Cable Television Franchise From Edmonds Cable Company To TCI Cablevision Of Washington

Attachment B – February 16, 2000, Letter from AT&T Regarding Internet Service and Future Franchise Fees

Attachment C – February 16, 2000, Letter from Chambers Cable Regarding Past and Future Franchise Fees

Attachment D – Government Channel Character Generator System Diagram

Attachment A

**Resolution No. 160, Approving The Transfer Of The
Cable Television Franchise From Edmonds Cable
Company To TCI Cablevision Of Washington**

RESOLUTION NO. 160

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, APPROVING THE TRANSFER OF THE CABLE TELEVISION FRANCHISE FROM EDMONDS CABLE COMPANY TO TCI CABLEVISION OF WASHINGTON

WHEREAS, Edmonds Cable Company, ("Franchisee") owns, operates, and maintains a cable television system ("System") in the City of Shoreline, Washington (the "Franchise Authority"), pursuant to Ordinance Nos. 83, 156 and 157, as amended (the "Franchise"), and Franchisee is the duly authorized holder of the Franchise; and

WHEREAS, AT&T Corp. ("AT&T"), TCI Cablevision of Washington ("TCI Washington") and Franchisee are parties to a Limited Liability Company Purchase Agreement, pursuant to which Franchisee will contribute the assets and liabilities associated with the cable television system serving the community represented by the Franchise Authority to TCI Edmonds, LLC (the "LLC") and Franchisee will then immediately sell all the ownership interests in the LLC to TCI Washington (collectively, the "Transfer"). As a result of the transfer, TCI Washington will become the parent entity of the LLC which will then hold the franchise; and

WHEREAS, TCI Washington and Franchisee have requested consent by the Franchise Authority to the Transfer in accordance with the requirements of the Franchise and have filed an FCC form 394 with the Franchise Authority; and

WHEREAS, Franchise Authority has reviewed the transfer application (including Federal Communications Commission Form 394) and conducted its review of the legal, technical and financial qualifications of TCI Washington; and

WHEREAS, Franchise Authority has relied upon certain statements and assurances made by Franchisee and AT&T Broadband & Internet Services on behalf of TCI Washington in performing its review hereunder; and

WHEREAS, Franchise Authority believes it is in Franchise Authority's interest to approve TCI Washington's holding of control of Franchisee and finds the LLC suitable to hold the Franchise:

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The Franchise Authority hereby consents to and approves TCI Washington's holding of control of Franchisee to the extent that such consent is required by the terms of the Franchise and applicable law, provided that:

- A) Information and assurances contained in correspondence from Janet L. Turpen, Director of Franchising, AT&T Broadband & Internet Services, dated January 28, 2000, and February 16, 2000, are incorporated herein by this reference as material terms to this agreement.

- B) Information and assurances contained in correspondence from Scott Chambers, Vice President, Chambers Communications Corp., dated February 3 and 16, 2000, are incorporated herein by this reference as material terms to this agreement.

SECTION 2. The Franchise Authority confirms that the (a) the Franchise was properly granted or transferred to Franchisee, (b) the Franchise is currently in full force and effect and will expire on July 7 2003 subject to options in the Franchise, if any, to extend such term, (c) the Franchise supersedes all other agreements between the Franchise Authority and the Franchisee (other than those specifically stated in Section 1 herein), (d) the Franchise represents the entire understanding of the Franchise Authority and the Franchisee and Franchisee has no obligations to the Franchise Authority other than those specifically stated in the Franchise (and those specifically stated in Section 1 herein), and (e) Franchisee is materially in compliance with the provisions of the Franchise and to the knowledge of the Franchise Authority, no fact or circumstance exists which constitutes or which, with the passage of time or the giving of notice or both, would constitute a material default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights under this Franchise (other than those specifically stated in Section 1 herein).

SECTION 3. Pursuant to the terms of the Franchise and any applicable federal, state or local law and on the giving of reasonable written notice, TCI Washington and the LLC may transfer the Franchise or control related to the Franchise to any entity controlling, controlled by, or under common control with AT&T Corp.

SECTION 4. This Resolution shall be deemed effective upon the closing of the Transfer.

PASSED this 28th day of February, 2000.

By: _____

ATTEST:

X _____
Clerk

Attachment B

**February 16, 2000, Letter from AT&T Regarding
Internet Service and Future Franchise Fees**

RECEIVED

FEB 17 2000

City Manager's Office



Northwest Division

AT&T Broadband & Internet Services
22025 30th Ave. SE
Bothell, WA 98021-4444

February 16, 2000

Sent Via Fax and US Mail

Mr. Kristoff Bauer
Assistant to the City Manager
City of Shoreline
17544 Midvale Avenue N.
Shoreline, WA 98133-4921

RE: Request for Further Information - Franchise Transfer Authorization

Dear Mr. Bauer:

You have requested clarification of TCI Cablevision of Washington, Inc. d/b/a AT&T Cable Services' ("AT&T") intentions with regard to the launch of the @HOME cable internet service to customers in the city of Shoreline (the "City"). You have also asked for assurance that AT&T will calculate franchise fees within the newly acquired area based upon the same gross revenue calculation methodology as utilized in the current AT&T service area.

Before addressing your specific questions, let me observe that the first information request addresses a cable programming service over which the City has no regulatory authority under federal law. The second is a question regarding Chambers' franchise compliance, rather than a review of AT&T's financial, legal, and technical qualifications. Nevertheless, in the spirit of cooperation and to provide you with as much information as possible, I will respond to your requests.

1. Request: Clarification of AT&T's intentions with regard to launch of the @HOME cable service ubiquitously throughout the City.

Response: On January 20, 2000, you requested assurances that existing AT&T customers within Shoreline will receive the benefits of an upgraded system, including the ability to provide internet access, beginning no later than June 5, 2000 with full implementation by August 12, 2000. I responded on January 28, 2000 that AT&T's upgrade of the cable system in the City is underway, and AT&T assures the City that it will complete construction in accordance with the enclosed construction schedule. AT&T's cable system, when upgraded, will be capable of delivering @HOME.

164



Mr. Kristoff Bauer
February 16, 2000
Page 2.

AT&T's internet cable service. (emphasis added)

You subsequently informed me that my response led certain elected officials to believe that AT&T had agreed, by virtue of the preceding response, to launch the @HOME service ubiquitously throughout the City by August 12, 2000.

I apologize for any confusion my response might have caused. My response addressed AT&T's cable system serving existing AT&T customers. My response did not address the status of Chambers' cable system and services provided to Chambers' customers in the City.

To further clarify, AT&T assures the City that the cable system serving AT&T's existing franchise area will be upgraded and capable of delivering two-way services, such as @HOME, by August 12, 2000. However, nothing herein requires or obligates AT&T to provide the @HOME cable service to customers.

Your request did not address the capabilities of the cable system currently serving Chambers customers, nor did my response. However, as stated in my letter of January 28, 2000, AT&T's long-term goal is to launch its regional channel line-up ubiquitously throughout the Puget Sound area, with exceptions in some communities dictated by franchise requirements or for the testing of new products, such as @HOME. AT&T cannot predict nor plan for the timing of such a transition in Shoreline until after the acquisition closes and it has adequate time to evaluate the system architecture and determine what, if any, technical changes must be made, and what contractual obligations must be fulfilled.

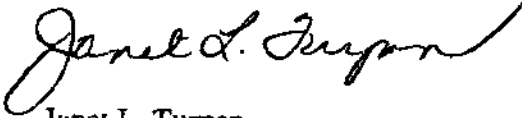
2. Request: Assurance that AT&T will calculate franchise fees within the newly acquired area based upon the same gross revenue calculation methodology as utilized in the current AT&T service area.

Response: AT&T offers its assurance that it will conform the calculation methodology and franchise fee payment practices of the two areas as soon as is practicable. Affecting the timing of conformation will be issues such as billing system conversion and coordination of accounting practices and procedures. Notwithstanding the foregoing, AT&T intends to comply fully with its franchise obligations, including calculation and payment of franchise fees.

Mr. Kristoff Bauer
February 16, 2000
Page 3.

I trust the preceding is responsive to your request. As always, please contact me at (425) 398-6142 with any questions.

Sincerely,



Janet L. Turpen
Director of Franchising

cc: Debbie Luppold, AT&T Broadband
Robert Trott, AT&T Broadband
James McMaster Esq., Sherman & Howard L.L.C.
Bob Towe, Chambers Cable
Jack Gradwohl, Chambers Cable

Attachment C

**February 16, 2000, Letter from Chambers Cable
Regarding Past and Future Franchise Fees**

RECEIVED

FEB 17 2000

190 W Dayton Street, Suite 201
Edmonds WA 98020-4182
Phone: (425) 774-5146
Fax: (425) 775-2299

City Manager's Office

Chambers
Cable

February 16, 2000

Kristoff T. Bauer
Assistant to the City Manager
City of Shoreline
17544 Midvale Avenue North
Shoreline, WA 98133-4921

Re: Franchise Fee Issue

Dear Mr. Bauer:

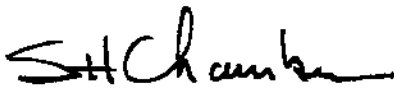
Thank you for your correspondence of February 15, 2000. We accept your proposed audit adjustment of \$30,640.29. We understand this adjustment covers the period of August 31, 1995 through December 31, 1999.

We will be processing a payment to the City of Shoreline in this amount to be received in your hands prior to February 28, 2000. We will send the check to your attention.

We will also be reflecting the Franchise Fees, Late Fees, Home Shopping and Bad Debts as Gross Revenues in calculating the Franchise Fees due the City of Shoreline for the periods from January 1, 2000 onward.

Our intention is to have any and all issues surrounding Franchise Fees resolved prior to the next City Council meeting on February 28, 2000.

Sincerely,



Scott Chambers
Vice-President, Edmonds Cable Company

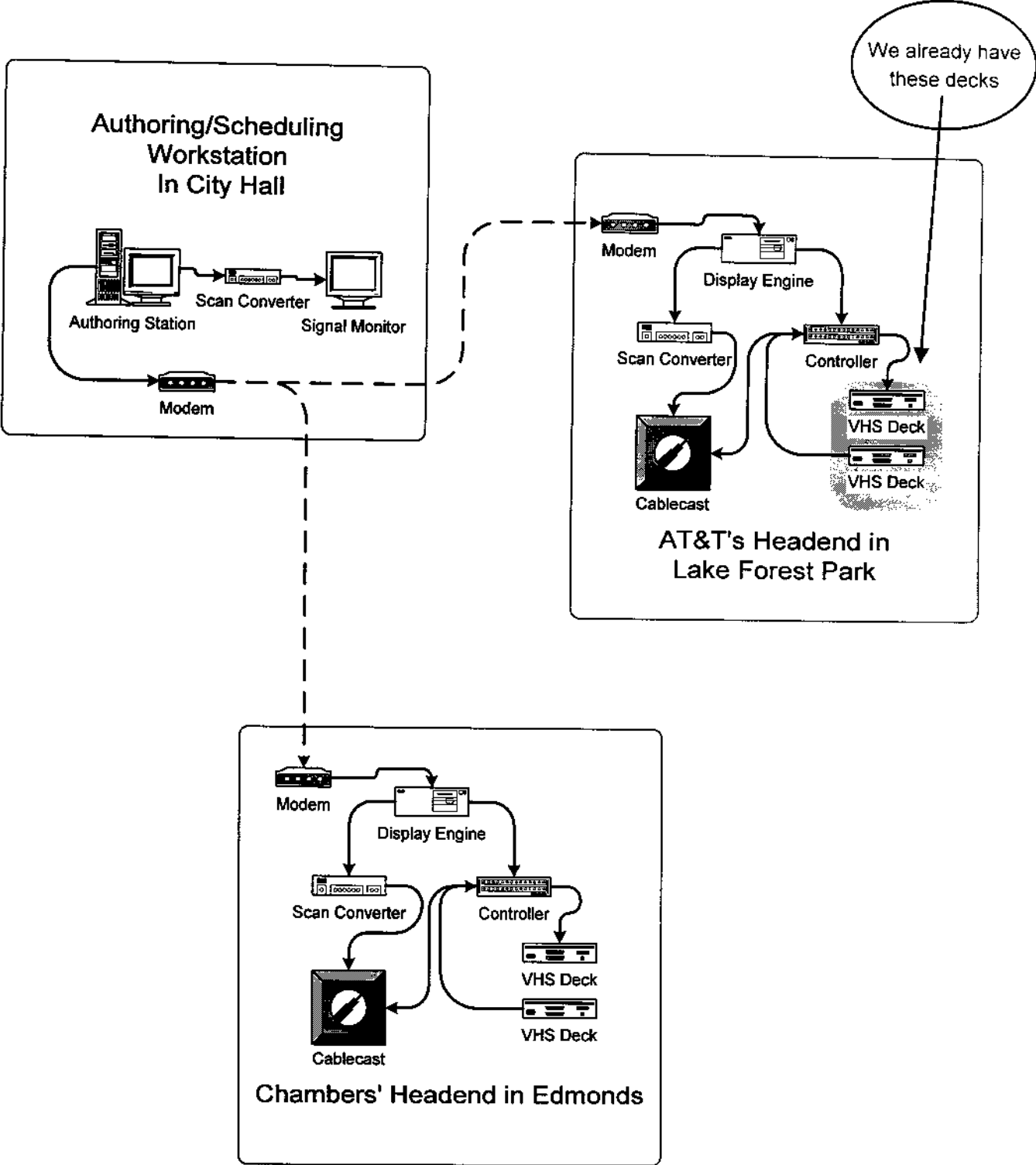
cc: Bob Towe, VP Cable Operations
Lon Hurd, 3H Cable Comm. Consultants
Steve Kilpatrick, Controller

SC/mpc

Attachment D

Government Channel Character Generator System Diagram

Proposed Government Channel Character Generator and
Video Scheduling System



CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Proposed Surface Water Small Projects for 2000 and Update of 1999 Surface Water Small Projects
DEPARTMENT:	Public Works
PRESENTED BY:	Gail Perkins, Operations Manager Public Works <i>GP</i> Edward Mulhern, Surface Water Coordinator Public Works <i>EM</i>

EXECUTIVE / COUNCIL SUMMARY

The purpose of this report is to update your Council on the status of surface water small projects prioritized in 1999 and to present a prioritized list of additional surface water small projects for 2000. Your Council's adopted 2000 Capital Improvement Program (CIP) includes funds to complete an unspecified number of small surface water improvement projects.

This is the fourth year the City has budgeted funds to address small drainage problems. In 1997 and 1998, staff completed 34 projects, with a total cost of \$838,805. In 1999, eighteen additional projects were prioritized and approved by Council at the March 15th Council meeting, with an estimated cost of \$665,600. Of these 18 projects, 16 are complete or under construction with a total cost of \$370,178. The remaining two have been rolled over to 2000 as they require additional environmental analysis, final design and construction (see Attachment A).

For 2000, staff has prioritized a list of 11 surface water small projects-eight newly identified issues and two rollover projects from the 1999 list (Attachment B). Additionally, one 1999 project at North 183rd and Dayton Place North was divided into 2 phases. Phase I was completed in 1999, and Phase II will be completed in 2000. These projects address longstanding and newly identified localized flooding and erosion problems. The CIP Surface Water Capital Fund includes a 2000 budget of \$836,000. Of this amount, \$206,178 has been carried forward to complete 1999 projects currently being constructed. Of the remaining \$629,822, \$529,000 is estimated for completion of 1999 rollover projects and for 2000 projects. However, due to the more technical, complicated nature of the drainage issues, additional environmental analysis and design work to determine downstream impacts and impacts on watercourses in the location of the drainage project may be required potentially increasing the initial cost estimate.

Projects are selected through a process that ranks small drainage problems according to criteria such as: what is endangered by the concern, the number of properties impacted, impacts to the natural system, and frequency of occurrence. Projects will be

completed in order of priority. However, as in previous years, it may be necessary to rearrange the order of the projects as:

- Projects may move up in ranking if they can be efficiently completed along with another high priority project.
- Projects may be moved to the CIP if during preliminary design it is determined the problem is much larger than initially reported.

Staff has prioritized all identified small drainage problems to date and is seeking to move in future years from reactive problem solving to a more proactive approach. Since incorporation, funds for surface water small projects have been allocated to fixing longstanding drainage issues identified by the citizens of Shoreline. As the number of known small drainage problems decreases, staff is looking to identifying potential problem areas in the future. The first step in this process will be to conduct an inventory and conditions assessment of the City infrastructure. Once this is completed, staff can identify and prioritize all components of the surface water infrastructure and develop a maintenance plan on a proactive basis. A detailed proposal for this assessment will be brought back to Council later this year.

If Council concurs with the recommended year 2000 project list, staff will proceed with design. The goal for 2000 will be to complete Phase II of the North 183rd and Dayton Place North project, the environmental review, final design and construction of the two 1999 rollover projects, and to complete design for the additional eight projects with the intent to construct in 2001. Some of the smaller projects may be designed and begin construction in 2000. City engineering staff will manage the projects and supervise the on-call engineering consultants who will complete the design work. As in previous years, we will combine projects under single construction contracts where it is efficient to do so.

RECOMMENDATION

No Council action is required at this time. Staff seeks consensus on the proposed prioritized list of Surface Water Small Projects for 2000 so we may move forward with design and construction.

Approved By: City Manager LB

City Attorney 

BACKGROUND / ANALYSIS

The City of Shoreline continues to address localized small drainage problems that impact private property and City right-of-way with damages from flooding and erosion. Many of these drainage problems were identified and studied by King County, but few projects were constructed. In 1997 and 1998, staff constructed 34 projects totaling \$838,805 to begin addressing long-standing drainage problems. An additional 18 projects were identified and prioritized for 1999. Sixteen of these projects have been completed or will be completed in early 2000 at an estimated cost of \$370,178. Two 1999 projects requiring more extensive design and environmental analysis will be rolled over and combined with eight newly identified projects to be prioritized for 2000. One project prioritized in 1999 was divided into two phases. Phase I was completed in 1999 as planned, however, additional issues were identified beyond the 1999 planned scope of work and will be addressed as Phase II in 2000. The estimated design and construction cost of the eleven 2000 projects is \$529,000.

Typically, surface water small projects are improvements that would relieve localized drainage problems and would be constructed for approximately \$100,000 or less each. Examples of typical small drainage projects include adding catch basin inlets to the local drainage system, increasing capacity of an existing drainage pipe system, repairing failing drainage structures, fixing erosion problems and creating thickened edges to direct water to existing systems.

Public Works has developed an equitable and defensible ranking process for prioritizing projects. This process was based on input from other Public Works agencies and was tailored to meet the City's specific needs. Your Council was introduced to this rating process in the October 19, 1998 Workshop, during the development of the Capital Improvement Program.

Projects are evaluated based on the following weighted criteria:

- Number of properties impacted
- What is endangered by the concern (e.g. private occupied/unoccupied structures, arterial/non-arterial roads, human safety)
- Impacts to the natural system
- Cause of concern (e.g. natural conditions, new development, inadequate private/public drainage system)
- Relationship to other drainage concerns
- How often the problem occurs
- Level of interagency cooperation
- Does improvement address local watershed needs (would the project relate to or be in conflict with plans such as the Ronald Bog watershed study.)
- What is the level of impact an improvement would have on water quality/fish habitat (e.g. projects that would relieve upland flooding, but introduce increased storm water velocities to receiving water bodies, causing erosion and sedimentation.)
- Project's effect on the local drainage system

- Support of upcoming CIP projects (e.g. would construction of this project enhance a planned overlay project.)
- Level of future maintenance expected

During the project ranking process, solutions are proposed for each drainage concern and project costs are estimated. These conceptual level costs are for ranking and budgeting purposes. They are refined during design engineering.

In a given year, it may be necessary to rearrange the priority order of projects as:

- Projects may move up in ranking if they can be efficiently completed along with another high priority project.
- Projects may be moved to the CIP if engineering investigation expands them beyond the cost and scope of the small drainage project category.

Status of 1999 projects

Your Council approved expenditures of up to \$500,000 in 1999 funds for construction of small drainage improvement projects. The 1999 project list included 18 projects with an estimated cost of \$665,600. Design work for 16 projects was completed in 1999 and construction began in January 2000. The revised estimate to complete the 16 projects is \$370,178 (Attachment A). During the CIP process, staff moved remaining funds for 1999 surface water small projects to 2000 to complete the construction phase.

Design for the final two projects began in 1999, however, staff determined these projects were more extensive than the previous small drainage projects completed to date, yet they did not meet the requirements of capital improvement projects. Due to the more technical, complicated nature of the drainage issues, additional environmental analysis and design work to determine downstream impacts and impacts on watercourses in the location of the drainage project must be completed before construction can begin on these projects. Therefore, the final two projects were rolled over and included in the 2000 list (see Attachment B). The goal in 2000 for the rollover projects will be to complete the environmental analysis and final design. If time permits, these projects will also be constructed in 2000.

Proposed 2000 prioritized project list

The CIP Surface Water Capital Fund includes a 2000 budget of \$836,000. Of this amount, \$206,178 has been carried forward to complete 1999 projects currently being constructed. The remaining \$629,822 is available for completion of 1999 rollover projects and for 2000 projects. Public Works staff is proposing eight new prioritized projects for 2000, Phase II of a project originally prioritized in 1999, and two rollover projects at a total estimated cost of \$529,000. These projects address longstanding and newly identified localized flooding and erosion problems. Nine drainage concerns are associated with private properties that regularly incur damages due to flooding, and two are associated with City road right-of-way flooding. The 2000 projects listed to address these concerns include adding catch basin inlets to the local drainage system, increasing capacity of an existing drainage pipe system, and repairing failing structures.

The eight new projects are listed in Attachment B in order of priority, with ranking scores ranging from 37 to 85 points. The maximum ranking score possible is 230 points. Overall, the number of small drainage issues identified by Shoreline citizens has decreased (down 30% in 1998 and another 37% in 1999). The ranking scores are also lower in 2000 indicating less potential benefit, however, until design is completed on each project, the benefit/complexity of the issue cannot be determined.

The program goal for the new projects added to the prioritized list in 2000 will include completing design work and environmental studies where necessary with the intent to construct in 2001. Some of the smaller projects may be designed and begin construction in 2000.

As the number of emergent issues declines and the prioritized list of projects is reduced, staff is seeking to move towards a proactive approach where all components of the surface water infrastructure are identified and prioritized and a maintenance program is established to repair/replace components before serious issues develop. To initiate this program, an inventory and conditions assessment of the City's surface water infrastructure will need to be conducted. A detailed proposal for this assessment will be brought back to Council later this year.

RECOMMENDATION

No Council action is required at this time. Staff seeks consensus on the proposed prioritized list of Surface Water Small Projects for 2000 so we may move forward with design and construction.

ATTACHMENTS

Attachment A: 1999 Surface Water Drainage Projects Summary

Attachment B: Proposed Surface Water Drainage Projects for 2000

1999 Surface Water Drainage Projects Summary

#	LOCATION	PROJECT HIGHLIGHTS	ESTIMATED COST	STATUS
1	Fremont and N 195 th	Construct catch basins and connecting pipe to resolve road way flooding problem	\$55,978	Complete-March 1999
2	2117 N 171 st Street	Fix chronic erosion problem in roadway shoulder	\$17,609	Construction Started 1/2000
3	15504 26 th Avenue NE	Construct catch basin and connecting pipe to resolve road way flooding problem	\$31,948	Construction Started 1/2000
4	Corliss and N 155 th Street	Construct catch basin and connecting pipe to resolve road way flooding problem	\$12,851	Construction Started 1/2000
5	Burke and N 155 th Street	Construct catch basin and connecting pipe to resolve road way flooding problem	\$12,579	Construction Started 1/2000
6	NE 170 th and 14 th Avenue NE	Resurface roadway and construct drainage inlets and connecting pipe to resolve roadway flooding problem	\$27,631	Construction Started 1/2000
7	125 NE 180 th Street	Regrade paving to direct storm water into drainage system	\$14,628	Construction Started 1/2000
8	2421 NE 180 th Street	Resurface edge of pavement and construct catch basin connecting pipe to resolve road way flooding problem	\$31,933	Construction Started 1/2000
9	15401 2 nd Avenue NE	Repair pipe to resolve flooding and erosion of property	\$27,731	Construction Started 1/2000
10	15568 11 th Avenue NE	Regrade paving to direct storm water into drainage system to resolve property flooding problem	\$16,541	Construction Started 1/2000
11	18058 Sunnyside Avenue N	Resurface edge of pavement and construct catch basin connecting pipe to resolve neighborhood flooding problem	\$24,885	Construction Started 1/2000
12	18051 25 th Avenue NE	Resurface edge of pavement and construct catch basin connecting pipe to resolve property flooding problem	\$19,992	Construction Started 1/2000
13	14515 31 st Avenue NE	Regrade paving to direct storm water into drainage system to resolve property flooding problem	\$18,359	Construction Started 1/2000
14	1212 NW 175 th Street	Construct new conveyance to resolve home flooding from right of way storm drainage	\$7,710	Rollover to 2000 Program
15	17405 14 th Avenue NW	Construct new conveyance to resolve home flooding from right of way storm drainage	\$11,722	Rollover to 2000 Program
16	N 183 rd and Dayton Place N	Upgrade Panterra Retention/Detention flow control structure (study only)	\$33,705	Phase I Completed
17	1829 NE 171 st Street	Preliminary engineering to identify flooding problem (study only)	\$4,376	Study Complete
18	16557 21 st Avenue NE	Construct curb and sidewalk repair to resolve home flooding problem due to sunken road	\$0**	Complete January 2000
		TOTAL	\$370,178	

**Transferred to sidewalk repair program

Proposed Surface Water Drainage Projects-2000

#	LOCATION	PROJECT HIGHLIGHTS	ESTIMATED COST*	RATING (max 230)
1	1153 N 165 th Street	Reconstruct conveyance system per design on file	\$32,500	85
2	14849 12 th Avenue NE	Study/Research problem, survey and model basin, ID habitat issues, ID easement needed	\$39,000	57
3	6 th Avenue NE	Install 500-600 feet of line with catch basins	\$39,000	52
4	20115 Fremont Avenue N	Install six catch basins and pipeline and connect to existing catch basin at 735 N 201 st Street	\$32,500	52
5	1237 NE 148 th Street	Replace failed infiltration system	\$13,000	48
6	17747 15 th Avenue NW	Install catch basin and pipeline on West side and connect to existing system on East side of 15 th Avenue NW	\$13,000	41
7	124 NW 203 rd Street	Install +/- 500 feet of pipeline with catch basins connecting to existing system on 3 rd Avenue NW	\$32,500	38
8	15532 Palatine Avenue N	Install catch basin in low spot and connect to existing system further N on Palatine Avenue N	\$6,500	37
9	N 183 rd and Dayton Place N	Upgrade Drainage System: Panterra Retention/Detention flow control structure	\$150,000	Phase II of a 1999 Small Drainage Project
10	1212 NW 175 th Street	Construct new conveyance to resolve home flooding from right of way storm drainage	\$116,000	Carryover from 1999 Small Drainage Projects
11	17405 14 th Avenue NW	Construct new conveyance to resolve home flooding from right of way storm drainage	\$55,000	Carryover from 1999 Small Drainage Projects
		TOTAL	\$529,000	

*Estimated Costs include Project Management, Engineering, Field Services, and Construction