

May 8, 2000

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## CITY OF SHORELINE

### SHORELINE CITY COUNCIL

### SUMMARY MINUTES OF DINNER MEETING

Monday, May 8, 2000  
6:00 p.m.

Shoreline Conference Center  
Highlander Room

PRESENT: Mayor Jepsen, Deputy Mayor Hansen, Councilmembers Grossman, Gustafson, Lee, Montgomery and Ransom

ABSENT: None

STAFF: Larry Bauman, Assistant City Manager; Kristoff Bauer, Assistant to the City Manager; Tim Stewart, Planning and Development Services Director; Kirk McKinley, Planning Manager; Eric Swanson, Senior Management Analyst; Ross Cutshaw, Economic Development Specialist; and Jan Briggs, King County Department of Transportation.

The meeting convened at 6:16p.m.

The meeting began with a general discussion of Council travel and attendance at the Association of Washington Cities conference in Spokane in June.

Deputy Mayor Hansen discussed Police Appreciation Day at the Church of the Nazarene on Sunday, May 7<sup>th</sup>. He reviewed attendees and the events of the day, including discussion of the shooting last spring.

Councilmember Ransom arrived at 6:27 p.m., followed shortly thereafter by Mayor Jepsen.

There was general discussion of agenda management and how the determination is made to place items on the consent calendar.

Assistant City Manager Larry Bauman introduced Jan Briggs, from the King County Department of Transportation. Ms. Briggs gave a presentation regarding the King County Transit-Oriented Development Project at the N. 192<sup>nd</sup> Park 'N Ride. She discussed the characteristics of the site and provided analysis regarding potential consistent uses for the site, including rental housing or possibly office. She pointed out the need for an anchor tenant and said retail uses could not be supported at this site unless the demand for retail was created by other uses on the site. She said the Puget Sound Learning Center is a potential anchor tenant. She pointed out that most examples of mixed uses in other communities are for rail and not transit. Doing a project in conjunction with transit raises some unique, but not insurmountable, challenges.

# DRAFT

Ms. Briggs continued that if the Puget Sound Learning Center selects the site, a more concrete design will be brought to the City and discussed with the neighborhood. She noted that actually movie theaters are the easiest joint use with transit, due to the fact that parking demands are made at different times of the day. If residential is constructed, the unique elements may include provision of buss passes and fleet joint use, with vehicles on site. The goal would be to make a car unnecessary for residents.

Ms. Briggs stated that King County may need some flexibility in terms of height restrictions and parking ratio standards from Shoreline in order to make a project work. The City may also be able to assist with the process for a programmatic Environmental Impact Statement. This would be a significant resource saving for a potential development partner. She pointed to the design of the Overlake Transit-Oriented Development Project as an example.

General discussion followed of the sub-area and master planning processes. The advisability of combining development regulation flexibility and environmental review in order to move the project forward was discussed.

Economic Development Specialist Ross Cutshaw discussed the City's efforts to reach out to the Puget Sound Learning Center regarding potential location at 192<sup>nd</sup>.

Councilmember Lee arrived at 7:08 p.m.

There was general discussion regarding how to move the project forward. The next step for King County will be additional market analysis and commencement of the design process. The meeting concluded with general discussion regarding the different uses that might be included in potential future development at the site.

The meeting adjourned at 7:20 p.m.

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Kristoff Bauer, Assistant to the City Manager

May 8, 2000

# DRAFT

## CITY OF SHORELINE

### SHORELINE CITY COUNCIL SUMMARY MINUTES OF REGULAR MEETING

Monday, May 8, 2000  
7:30 p.m.

Shoreline Conference Center  
Mt. Rainier Room

PRESENT: Mayor Jepsen, Deputy Mayor Hansen, Councilmembers Grossman, Gustafson, Lee, Montgomery and Ransom

ABSENT: None

1. CALL TO ORDER

The meeting was called to order at 7:32 p.m. by Mayor Jepsen, who presided.

2. FLAG SALUTE/ROLL CALL

Mayor Jepsen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present, with the exceptions of Councilmembers Grossman and Ransom, who arrived shortly thereafter.

3. REPORT OF CITY MANAGER

Councilmember Grossman arrived at 7:33 p.m.

Assistant City Manager Larry Bauman asked Council to add an item to the agenda to consider a waiver of the \$221 permit fee for the Shorewood High School Stop the Hate Diversity March.

Mr. Bauman explained revisions to Ordinance No. 236, which appears on the agenda as item 7(c), and to Ordinance No. 235, which appears on the agenda as item 9(c).

Mr. Bauman reported that the Planning Commission has elected new officers: Marlin Gabbert, Chair; and Kevin McAuliffe, Vice Chair. The Council of Neighborhoods also elected new officers: Darlene Feikima, Chair; Bonnie Mackey, Vice Chair; and Margi King, Secretary.

Councilmember Ransom arrived at 7:38 p.m.

4. REPORTS OF BOARDS AND COMMISSIONS: None

5. PUBLIC COMMENT

# DRAFT

(a) Walt Hagen, 711 N 193<sup>rd</sup> Street, requested information about a technology center at 192<sup>nd</sup> Street and Aurora Avenue.

(b) Patty Crawford, 2326 N 155<sup>th</sup> Street, discussed construction along Thornton Creek at 2330 N 156<sup>th</sup> Place. She provided a photograph of recent activity at the site. She highlighted statements from the Statewide Strategy to Recover Salmon.

(c) Tim Crawford, 2326 N 155<sup>th</sup> Street, reviewed correspondence from and to Planning and Development Services Director Tim Stewart. He asserted that City staff is not protecting Thornton Creek.

Mayor Jepsen explained that the Washington State Department of Transportation (WSDOT) owns, and Metro-King County operates, the park-and-ride at 192<sup>nd</sup> Street and Aurora Avenue. He said Shoreline Community College and the Edmonds Community College seek to site a technology center in the Shoreline-Edmonds area, and the colleges are considering the 192<sup>nd</sup> Street site among many others. He commented that several parties are considering the future use of the 192<sup>nd</sup> Street site. He stressed that no decisions have been made.

In response to Mayor Jepsen, City Attorney Ian Sievers advised that the City will be party to litigation regarding construction near Thornton Creek. He recommended against public comment about the issue by Council or staff.

## 6. APPROVAL OF THE AGENDA

**Councilmember Lee moved to approve the agenda. Deputy Mayor Hansen seconded the motion.**

**Deputy Mayor Hansen moved that Council move agenda items 9(b) and 9(c) to the consent calendar and that Council add consideration of a waiver of the \$221 permit fee for the Shorewood High School Stop the Hate Diversity March as new agenda item 9(b). Councilmember Gustafson seconded the motion, which carried 7-0.**

**Councilmember Montgomery moved that Council move new agenda item 9(b) to the consent calendar. Councilmember Grossman seconded the motion. Councilmember Gustafson objected; therefore, Council did not move new agenda item 9(b).**

**A vote was taken on the motion to approve the agenda, as amended, which carried 7-0.**

## 7. CONSENT CALENDAR

**Deputy Mayor Hansen moved that Council adopt the consent calendar, as amended. Councilmember Lee seconded the motion, which carried 7-0, and the following items were approved:**

**Minutes of Workshop Meeting of April 17, 2000  
Minutes of Dinner Meeting of April 24, 2000**

**Approval of expenses and payroll as of April 14, 2000 in the amount  
of \$441,483.37**

**Ordinance No. 236, amending Ordinance No. 98 by closing the  
Advance Travel Fund**

**Motion to approve the amendments to Sections 4 and 7 of the City  
Manager's employment agreement and an incentive payment for 1999  
in the amount of \$6,000**

**Ordinance No. 234 appropriating budget authority in 2000  
for uncompleted 1999 capital projects**

**Ordinance No. 235 amending the 2000 budget for the early  
hire of three Public Works positions and the hire of one  
new position in October 2000**

8. **ACTION ITEMS: PUBLIC HEARINGS**

- (a) Public hearing to consider citizens comments regarding Ordinance No. 233, which established a moratorium on the establishment of new pari-mutuel off-track betting facilities as a principal use or accessory use to existing commercial establishments with the City of Shoreline

Mr. Sievers reviewed the staff report.

**Mayor Jepsen opened the public hearing.**

(1) Ed Ives, 2106 N 156<sup>th</sup> Place, asserted his right to spend his time as he sees fit. He said health problems make it difficult for him to travel to Emerald Downs via public transportation. He commented that businesses on Aurora Avenue have no impact on students at Shorewood High School.

(2) David Osgood, 1411 4<sup>th</sup> Avenue, Suite 1500, Seattle, spoke as the attorney for Parker's. He questioned the need for the public hearing. He noted that Parker's received interim permission to provide off-track betting and that it has provided the service since May 4. He reported a lack of parking problems. He said secondary social impacts to Shoreline have only been positive. He asserted that King County Superior Court Judge Robert Alsdorf found as fact, and as a matter of law, that Parker's submitted an application to provide off-track betting prior to Council adoption of the moratorium. He questioned the use of tax revenues to fund the work of the City Attorney and two legal consultants to oppose off-track betting at Parker's. Noting that Parker's

May 8, 2000

had offered to prohibit persons under 21 years of age from its premises, he said Shorewood High School and youth gambling will not be an issue. He asserted that Parker's wants to work positively with the City to address its concerns.

(3) Ken Howe, 745 N 184<sup>th</sup> Street, commented that gambling is getting out of control, as had been predicted during Council discussions earlier in the year. He said the Washington State Gambling Commission would not have allowed a new business to build and provide off-track gambling at the Parker's site. He asserted neighborhood opposition to off-track betting at Parker's. He said if Seattle makes gambling illegal, Shoreline should also.

(4) Carol Henry, 17001 Aurora Avenue N, spoke as General Manager of Parker's. She reported that Parker's provided off-track betting for the Kentucky Derby May 6. She anticipated that it will turn out to have been the busiest day of the year. She noted a lack of behavior and traffic problems.

(5) Bill Bright, 5701 Seaview NW, Seattle, supported the provision of off-track betting at Parker's. He commented that gambling at Parker's is safer than traveling to Emerald Downs. He mentioned that Parker's attracts customers for other Shoreline businesses.

(6) Ron Ray Bowes, 13111 82<sup>nd</sup> Avenue NE, Redmond, sought to speak on behalf of disabled people in support of Parker's as an accessible provider of pari-mutuel betting.

(7) Fred Rantz, 3008 NE 185<sup>th</sup> Street, mentioned his enjoyment of horse racing. He supported Parker's as local access to pari-mutuel betting.

(8) Chuck Potter, 419 S 146<sup>th</sup> Street, Seattle, spoke as the Director of Simul-casting at Emerald Downs. He noted that Emerald Downs has 18 other off-track betting sites in Washington and that it has not experienced opposition previously. He asserted a lack of negative impacts during the first weekend of operation at Parker's. He said Parker's employs several Shoreline residents. He mentioned that off-track betting helps to support horse racing at Emerald Downs.

(9) Jim Mumm, 1615 N 143<sup>rd</sup> Street, noted the long history of horse racing in the country and the region. He said patrons of off-site betting establishments are "less trouble" than those of mini-casinos. He commented that the Parker's site provides sufficient parking and accommodates traffic.

(10) Bob Frazier, 3501 20<sup>th</sup> Avenue Court SE, Puyallup, spoke as Director of Operations at Emerald Downs. He cited research by Emerald Downs identifying its average customers as 55-year-old, highly-educated men. He asserted a lack of negative impacts of off-track betting sites in other communities (e.g., Everett, Yakima and Auburn). He asserted the benefit of off-track betting at Parker's to horse racing enthusiasts. He noted that horse racing is recovering as an industry in the region.

(11) Don Dennis, 19817 10<sup>th</sup> Place NW, objected to the comparison of gambling on horse races to gambling on cards. He noted the round-trip distance from his home to Emerald Downs—80 miles—and the round-trip distance to Parker's—four and a half miles.

(12) Gene Sharpe, 16243 14<sup>th</sup> Avenue NE, reviewed his long involvement in horse racing. He supported off-track betting at Parker's, and he opposed the moratorium.

**Councilmember Lee moved to close the public hearing. Councilmember Gustafson seconded the motion, which carried unanimously.**

Mr. Sievers acknowledged the preliminary injunction against application of the moratorium to Parker's. He explained that the moratorium is necessary to address other potential sites in Shoreline while the City determines whether regulations are necessary to control this form of gambling.

Mayor Jepsen noted that Council is obligated under State law to hold a public hearing.

In response to Councilmember Ransom, Mr. Sievers said there is no settlement at this time concerning off-track betting at Parker's.

Councilmember Lee asserted that the moratorium is part of the "due process" that Council has undertaken to understand the implications of off-track betting in Shoreline.

Councilmember Gustafson asserted the need for the moratorium to consider the impacts of off-track betting at Parker's. He stressed his concern about the proximity of Shorewood High School.

## 9. OTHER ORDINANCES, RESOLUTIONS AND MOTIONS

- (a) Ordinance No. 237 establishing a moratorium on acceptance and processing of new franchise applications for telecommunications service providers within the City of Shoreline and declaring an emergency

Kristoff Bauer, Assistant to the City Manager, reviewed the staff report. He explained that the proposed moratorium provides time for staff to develop, and Council to consider and adopt, legislation to implement the new State law concerning management of municipal right-of-way.

**Councilmember Montgomery moved that Council adopt Ordinance No. 237 establishing a moratorium on acceptance and processing of new franchise applications for service providers. Deputy Mayor Hansen seconded the motion.**

# DRAFT

In response to Councilmember Grossman, Mr. Bauer said staff intends to propose draft legislation within the 65-day period of the proposed moratorium.

In response to Councilmember Ransom, Mr. Bauer explained that the moratorium applies to the application for, and the processing of, new franchises. He said utilities currently providing services in Shoreline are already franchised, and the moratorium will not disrupt the progress of franchise negotiations with other utilities. He said it would be difficult for staff to develop regulations at the same time that it processes franchise applications and permits.

In response to Councilmember Lee, Mr. Bauer said the new State law focuses on telecommunications. He explained that the moratorium will give staff time to develop regulations of sufficient specificity to allow the City to control the operation of wireless telecommunications providers in its right-of-way.

Councilmember Lee questioned the applicability of the City's ordinance regarding wireless telecommunications facilities. Mr. Bauer said the wireless telecommunications facilities ordinance references the City franchise ordinance in the case of wireless facilities in the right-of-way. He reiterated that the franchise ordinance may not be specific enough to be enforceable under the new State law. He said staff will propose new regulations related to the siting of wireless facilities in the right-of-way and a specific franchise application process for consideration by Council.

Councilmember Gustafson supported the adoption of the moratorium to give the City time to study and discuss options. Councilmember Montgomery agreed.

Councilmember Ransom expressed his willingness to support the moratorium and his opposition to its extension. Mr. Bauer noted that earlier drafts of the new State law included a delayed effective date to give cities time to implement necessary regulatory changes.

Mayor Jepsen said the moratorium is a response to what happened in Olympia. Deputy Mayor Hansen commented that the City was in compliance with the State laws that previously existed and that it needs time now to comply with the new law.

Councilmember Grossman asserted that the number of moratoriums the City has recently enacted is symptomatic of the complexity of the current regulatory environment.

**A vote was taken on the motion, which carried 7-0, and Ordinance No. 237 establishing a moratorium on acceptance and processing of new franchise applications for service providers was adopted.**

- (b) Waiver of fee in the amount of \$221 for the Shorewood High School Stop the Hate Diversity March



May 8, 2000

# DRAFT

Mr. Bauman reviewed the request of Shorewood High School student Leah Montange, during public comment at the May 1, 2000 Council workshop, for a waiver of the right-of-way use permit fee for the Shoreline Diversity March.

**Councilmember Lee moved to authorize the City Manager to waive payment of fees in the amount of \$221 for a right-of-way use permit to be issued to Shorewood High School for its Diversity March on May 10, 2000. Councilmember Ransom seconded the motion.**

Councilmember Ransom asserted that Council should support a student-sponsored march as a "non-special expense item."

Councilmember Gustafson expressed support for student-sponsored activities. However, he advocated that Council consider the long-range ramifications of waiving fees for different activities.

Deputy Mayor Hansen agreed. He noted his concern about the precedent that Council is setting. He advocated that Council direct staff to develop a policy on fee waivers for Council consideration.

Councilmember Ransom asserted a relationship between Council policy on fee waivers for student-sponsored events and the willingness of the School District to waive fees for City use of District facilities.

Councilmember Grossman highlighted the need for increased awareness of diversity in the community. He said the demographics of elementary school students in Shoreline show "a huge change coming in the next 15 to 20 years." He advocated Council support for student efforts to foster positive awareness of the issue.

Councilmember Gustafson asserted his support for waiving the fee for the march, and he reiterated the need for a policy to address future requests for fee waivers.

Mayor Jepsen indicated his support for waiving City fees for student events sanctioned by the School District. He said this position is consistent with the Council position, in City negotiations of a memorandum of understanding with the School District, that taxpayers should not have to pay twice for public facilities.

Councilmember Montgomery expressed support for Council consideration of a policy on fee waivers.

**A vote was taken on the motion to authorize the City Manager to waive payment of fees in the amount of \$221 for a right-of-way use permit to be issued to Shorewood High School for its Diversity March on May 10, 2000. The motion carried 7-0.**

Councilmember Gustafson advocated that staff include the waiver of City fees in the memorandum of understanding between the City and the School District.

10. CONTINUED PUBLIC COMMENT

(a) Walt Hagen, 711 N 193<sup>rd</sup> Street, objected to the letter of May 4 from Mr. Stewart to the attorney representing Mr. and Mrs. Crawford. He asserted longstanding, common understanding of Thornton Creek as a salmonid creek. He commented that the City may have made a mistake in permitting construction near the creek. He said the City should admit the mistake and withdraw the building permit.

(b) Margi King, 20307 25<sup>th</sup> Avenue NE, mentioned the limited amount of parking available for City meetings at the Shoreline Conference Center and questioned the status of planning for a City Hall. She noted the presence of an off-duty police officer at the Richmond Highlands Teen Recreation Center, and she inquired about police presence, or police plans to respond to problems, at the Shoreline Eastside Late Night Teen Program at the Aldercrest Annex. Finally, she recognized the responsiveness of the City to citizen concerns.

(c) Sali Roguero, 2155 N 159<sup>th</sup> Street, advocated adoption of a City law to require pet owners to scoop and dispose of pet wastes.

Mr. Bauman agreed to discuss police presence at the Eastside Late Night Teen Program with Teen Program Supervisor Mary Reidy.

In response to Mayor Jepsen, Mr. Sievers commented that the City may be able to require pet owners to scoop and dispose pet wastes under its litter ordinance. Councilmember Lee commented that the City cannot enforce its leash law, let alone a scooping law. Mayor Jepsen identified these as public education issues.

Councilmember Lee recognized the City student interns in attendance at the meeting.

11. EXECUTIVE SESSION

At 9:00 p.m., Mayor Jepsen announced that Council would recess into executive session for 20 minutes to discuss one item of potential litigation.

At 9:45 p.m., the executive session concluded, and the regular meeting reconvened.

12. ADJOURNMENT

At 9:46 p.m., Mayor Jepsen declared the meeting adjourned.

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Sharon Mattioli, CMC  
City Clerk

May 15, 2000

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**CITY OF SHORELINE**  
**SHORELINE CITY COUNCIL**  
**SUMMARY MINUTES OF WORKSHOP MEETING**

Monday, May 15, 2000  
6:30 p.m.

Shoreline Conference Center  
Mt. Rainier Room

**PRESENT:** Deputy Mayor Hansen, Councilmembers Grossman, Gustafson, Lee  
Montgomery and Ransom

**ABSENT:** Mayor Jepsen

1. **CALL TO ORDER**

The meeting was called to order at 6:35 p.m. by Deputy Mayor Hansen, who presided.

2. **FLAG SALUTE/ROLL CALL**

Deputy Mayor Hansen led the flag salute. Upon roll by the City Clerk, all Councilmembers were present, with the exception of Mayor Jepsen.

**Councilmember Lee moved to excuse Mayor Jepsen. Councilmember Gustafson seconded the motion, which carried 6-0.**

(a) **Planning Commission Commendations**

Deputy Mayor Hansen presented commendations and plaques to Ted Bradshaw, Dan Kuhn, Roger Parker and Byron Vadset, who served on the Shoreline Planning Commission from October 1995 until earlier this year. Each of the former commissioners spoke briefly about his experience on the Commission.

3. **CITY MANAGER'S REPORT AND FUTURE AGENDAS**

Robert Deis, City Manager, suggested a joint dinner meeting of Council and the new Planning Commission.

Next, Mr. Deis reported that State Representatives Carolyn Edmonds and Ruth Kagi and State Senator Darlene Fairley will present a legislative briefing to Council at its workshop June 19.

Finally, he mentioned that the School District is close to concluding its consideration of the proposed memorandum of understanding (MOU) with the City. He explained that staff will present the MOU to Council after the School District completes its

# DRAFT

consideration and that staff will schedule a joint dinner meeting of Council with the School Board in June.

## 4. COUNCIL REPORTS

Councilmember Grossman said he attended a recent meeting of the Housing Partnership.

Councilmember Ransom reported that he attended the April 27 meeting of the Shoreline Water District. He said the tone of the meeting illustrated the hostility of the Water District toward the City. He expressed his concern about the ability of the City to implement its Comprehensive Plan given the apparent unwillingness of the Water District to cooperate with the City.

Continuing, Councilmember Ransom said he attended the King County Council meeting on alternative medicine earlier in the day at Bastyr University. He noted the April 29 groundbreaking for the new Richmond Beach Library as the culmination of a 15-year effort to construct the new facility. He mentioned the recent installation of the new Shoreline Library Board.

Finally, Councilmember Ransom said he attended the May 10 meeting of the Suburban Cities Association (SCA). He noted the election of Deputy Mayor Hansen to the SCA Board of Directors.

Councilmember Montgomery said the Regional Transit Committee will meet May 18 and again later in the month. She identified one agenda item: interim State funding to forestall transit service reductions in the wake of Initiative 695. She explained that the State gave the County the authority to propose a local sales tax option for transit services. She said committee members who represent suburban cities have said they cannot support or oppose the local sales tax option until the County determines how it will allocate service reductions.

Councilmember Gustafson noted the Association of Washington Cities meeting June 2 to address the Endangered Species Act. He mentioned the U.S. House of Representatives vote overwhelmingly in favor of a five-year extension of the moratorium on taxing Internet businesses.

## 5. PUBLIC COMMENT

(a) Bill Bear, 2541 NE 165<sup>th</sup> Street, spoke as the Director of the Briarcrest Neighborhood Association. He called attention to an article on salmon stream wetlands in the Briarcrest newsletter. He said citizens have ultimate responsibility for city government decisions that harm the environment. He asserted that affordable housing is underemphasized in the City Development Code.

(b) Dennis Lee, 14547 26<sup>th</sup> Avenue NE, spoke as President of Concerned Citizens for Shoreline. He asserted three problems in the City's new Development Code.

# DRAFT

He identified narrow access roads as the first problem. Second, he said the property setbacks in higher-density zones adjoining single-family zones are less than those in the previous code. Finally, he advocated the section on design standards that staff proposed originally, and that the Planning Commission revised.

(c) Clark Elster, 1720 NE 177<sup>th</sup> Street, read from a letter in which he urged Council to reconsider V.2.C-1 and V.2.C-2 of the Development Code Phase 2.

(d) Ken Howe, 745 N 184<sup>th</sup> Street, reported on his attendance at the May 11 open house on the Aurora Corridor Project.

(e) Don Brown, 727 N 193<sup>rd</sup> Street, advocated City enforcement of its fireworks ban before and on the Fourth of July.

(f) Walt Hagen, 711 N 193<sup>rd</sup> Street, recalled former Planning Commissioner Dan Kuhn's assertion that Shoreline citizens want a "stress-free environment." Mr. Hagen said the City is not providing this.

(g) Patricia Peckol, 19144 8<sup>th</sup> Avenue NW, discussed on-site recreation open space requirements for multi-family developments in the proposed Development Code. She requested that Council reconsider amendments number 164 and 165, which would modify or eliminate the exceptions to the open space requirements.

(h) Patty Crawford, 2326 N 155<sup>th</sup> Street, said the City has allowed construction along Thornton Creek that violates the 100-foot stream buffer required in the Shoreline Municipal Code. She contested the assertion that Thornton Creek is unmapped. She advocated that the City stop the construction.

(i) Tim Crawford, 2326 N 155<sup>th</sup> Street, said comments to him by City staff at a recent neighborhood association meeting alienated other neighborhood residents in attendance. He asserted that Planning and Development Services is not implementing City policies.

Noting that many of the comments concerned the Development Code Phase 2, Deputy Mayor Hansen said Council will hold a public hearing on the proposed code at its next meeting. Mr. Deis said Council can direct staff to address specific elements of the proposed code after the public hearing.

Mr. Deis advised that Shoreline Police confiscated fireworks last year but did not issue citations. He suggested that Police Chief Denise Pentony address Council at a future meeting regarding plans for the upcoming Fourth of July.

Deputy Mayor Hansen asserted the difficulty of enforcing the fireworks ban in Shoreline and of enforcing those in other cities.

# DRAFT

Mr. Deis asserted the difficult balance of enforcing City regulations. He mentioned that the City has begun enhanced enforcement of its dog leash law. Deputy Mayor Hansen supported this enhanced enforcement.

Councilmember Gustafson advocated a presentation by Chief Pentony about enforcement of the fireworks ban and additional Council discussion regarding the leash law.

Councilmember Grossman supported community education about the fireworks ban followed by enhanced enforcement. Councilmember Gustafson agreed.

## 6. WORKSHOP ITEMS

### (a) Endangered Species Act Strategy

Public Works Director Bill Conner stressed the informational intent of the staff presentation. He said staff will return to Council in the future to present specific recommendations and to identify sources of funding. He noted impacts of the Endangered Species Act (ESA) to the City Capital Improvement Program (CIP)—especially to federally-funded and federally-permitted projects—and to operations and maintenance of City infrastructure.

Surface Water Manager Edward Mulhern explained that in March 1999 the National Marine Fisheries Service (NMFS) listed seven species of West Coast salmon as threatened under ESA. The listing of the Puget Sound Chinook salmon applies to the City of Shoreline. Mr. Mulhern went on to review key ESA provisions, including:

- Listing prohibits harm to a threatened species or to its habitat;
- Under Section 4(d), NMFS will publish a rule to protect listed species—the rule for the King, Snohomish and Pierce Tri-County area could be issued as early as mid-June or as late as December;
- Section 7 requires environmental review of federally-funded projects;
- Section 10 addresses long-term recovery plans—such plans provide long-term protection against liability for current and future listed species; but such plans include habitat conservation plans, which are costly to develop and implement; and
- Provisions for citizen lawsuits and third-party involvement regarding protected species.

Mr. Mulhern explained that the City may commit to comply with the Tri-County 4(d) rule. Then, City actions that follow the provisions of the rule would not be subject to NMFS review or enforcement actions. If the City considers the requirements of the Tri-County 4(d) rule to be too severe, it may conduct an independent examination of its programs and services to protect Puget Sound Chinook salmon. However, such programs and services would be subject to direct NMFS review.

Mr. Mulhern commented that ESA is similar to, and overlaps with, other regulations, including the Growth Management Act (GMA), the Shoreline Management Act and the

May 15, 2000

State Environmental Policy Act (SEPA). He also mentioned regulations rising out of the Clean Water Act. He said ESA will require watershed planning and management, participation in regional funding, and habitat inventory, acquisition and enhancement. He noted the staff expectation of minimal Chinook habitat in Shoreline.

Deputy Mayor Hansen invited public comment.

(1) Peter Hayes, Continuing Co-Director, Thornton Creek Project, discussed the educational program which involves students at 35 schools in 12 square miles and promotes the understanding of the immediate community as a basic part of good education. He expressed enthusiasm at the participation of Shoreline, with Seattle, King County, local businesses and others, in the program.

Deputy Mayor Hansen said he learned through the SCA that the Tri-County 4(d) rule would be finalized in June. Mr. Conner acknowledged this possibility. He said the federal government has mentioned a December implementation date. He noted that the Earth Justice Legal Defense Fund may sue the government to require implementation of the 4(d) rule within 60 days of publication.

Councilmember Gustafson advocated the inventory of City watersheds. He has attended meetings of the Lake Washington Watershed and of Watershed Resource Inventory Area (WRIA) 8. He said information from these groups will help the City in its decision making. He expressed concern that listing of Puget Sound salmon species under ESA will represent an unfunded mandate for the City. He recommended contact with legislators to ensure federal and State funding.

In response to Councilmember Gustafson, Mr. Mulhern said staff believes that ESA listing of Puget Sound Coho salmon would have greater impact on the City than listing of the Chinook salmon because there is likely to be more Coho habitat in Shoreline.

Deputy Mayor Hansen noted the need to locate and correct "cross connections" of wastewater and storm water drains to prevent the release of untreated materials.

Councilmember Grossman asked about the "trickle down implications" of the ESA on the City Development Code. He also asked about opportunities for negotiation (e.g., an increase in City action to benefit habitat, such as daylighting streams, in exchange for decreased regulation in other areas of less importance to listed species). Mr. Mulhern asserted the difficulty of the current negotiations between the Tri-Counties and NMFS. He said the City can directly negotiate its own long-term recovery plan with NMFS under ESA Section 10, but he reiterated that the development of such plans is expensive and time consuming.

Tim Stewart, Planning and Development Services Director, acknowledged the importance of ESA to the new Development Code. He said the City can consider opportunities to improve the health of watersheds (e.g., removal of obstacles) as it

# DRAFT

conducts its watershed inventories. He identified such opportunities as bases for negotiation regarding other requirements.

In response to Councilmember Grossman, Mr. Stewart confirmed that an inventory of existing habitat is the starting point for establishing a sound City plan. Mr. Conner said enforcement is based on current conditions. He noted this as a key reason the environmental community favors early implementation of the 4(d) rule.

In response to Councilmember Ransom, Mr. Conner said staff is not able at this time to identify impacts and estimate costs specific to Shoreline of the ESA listing of salmon species. He confirmed that the City will probably have to install special screens to filter storm water. He discussed potential changes in how the City maintains vegetation.

Councilmember Ransom asked if the City has an obligation to protect fish that citizens introduce into a waterway. Mr. Conner said City actions to protect such fish could be assets in settlement negotiations with the federal government. He mentioned that the City might participate in efforts to protect habitat of listed species outside of Shoreline in order to secure the right to manage redevelopment within Shoreline.

Deputy Mayor Hansen commented that hatchery fish have fallen out of favor with the State because of the lack of genetic diversity within hatchery fish populations.

Mr. Deis identified activities the City must undertake regardless of ESA requirements: inventorying drainage basins; inventorying and assessing surface water management facilities; and cataloging the data in the City Geographic Information System (GIS). He said the County did not provide a good inventory when it transferred surface water facilities to the City.

In response to Councilmember Gustafson, Mr. Conner said the City has the data to complete high-level mapping of its surface water management facilities within a few months. He explained that the City would need to collect new data to perform more detailed mapping and that such data collection would take much longer. Mr. Stewart noted the need for biological assessment of watersheds as well. Mr. Conner estimated that a good inventory would require three to six months to complete. Mr. Deis said the 2001 City budget for surface water management will identify specific timelines and costs.

Deputy Mayor Hansen supported the rehabilitation of streams that can be rehabilitated, regardless of whether they currently contain fish. He said he regards the ESA as more of an opportunity than a problem. He advocated the inventory and classification of streams as the City's first priority. He suggested monitoring water quality in City watersheds as the next priority. He noted that many of the regulations under discussion are already required by the Puget Sound Water Quality Management Plan. He pointed out that the City already complies with many of the regulations.

Mr. Deis identified two factors that will affect the actions the City undertakes to protect fish and fish habitat: 1) cost; and 2) infringement of development rights of private



# DRAFT

property owners. He asserted that the City must balance the needs of listed species and the Constitutional rights of property owners.

Deputy Mayor Hansen noted the activities of the privately-funded Deer Creek Hatchery in Edmonds. He advocated Boeing Creek as a site for a similar private or public undertaking.

Deputy Mayor Hansen stressed that the goal of the 4(d) rule is to achieve the recovery of the listed species.

Councilmember Grossman asserted the need for creative approaches that provide incentives for property owners and others to participate in species recovery.

## (b) Review of Request for Proposals for Solid Waste Collection Services

Kristoff Bauer, Assistant to the City Manager, outlined the proposed Request for Proposals (RFP) process. He discussed the basis for the service level contained in the RFP. Finally, he addressed risks of the proposed timeline.

Mr. Bauer said the current solid waste service providers could challenge the City's right to terminate their contracts. He noted that staff has filed a declaratory judgment action to try to clarify the City's rights. He explained the goal to provide this information to Council for use in deliberating its final decision.

Mr. Deis identified mandatory collection for all residential customers as the most controversial of the mandatory alternate bid items. He acknowledged that many residents currently haul their own garbage. He stressed that staff included this item in the RFP for informational purposes only.

In response to Councilmember Gustafson, Mr. Bauer said the City of Seattle has mandatory collection for all residential customers.

Deputy Mayor Hansen invited public comment.

(a) Richard Johnsen, 16730 Meridian Avenue N, asked if the 1<sup>st</sup> Avenue NE transfer station will accept a wider variety of plastics for recycling as part of a new, expanded service level for solid waste collection. He asserted that people who make an effort to recycle should pay less for solid waste collection than those who do not.

Mr. Bauer said the service level contained in the RFP includes the collection of a wider variety of plastics for recycling. He clarified that this would not change the collection at the 1<sup>st</sup> Avenue NE transfer station, which is controlled by King County. He explained the intent of including recycling in the rate for solid waste collection is to allow customers to recycle more and pay less for using a smaller waste can.

# DRAFT

Councilmember Grossman supported a rate structure that promotes recycling.

Councilmember Montgomery noted the difference in the rates of Rabanco and Waste Management. Mr. Bauer said residents residing within the Waste Management service area do not have the option to choose Rabanco as their service provider.

In response to Councilmember Montgomery, Mr. Bauer noted few objections when Rabanco changed to a commingled collection service for recyclables.

Councilmember Gustafson supported the inclusion of vacation service cancellation as a mandatory alternate bid item.

In response to Councilmember Gustafson, Mr. Bauer explained that the "maximum annual tipping fee expenditure," included in the mandatory alternate bid item for community cleanup events, establishes an allowance for costs the hauler incurs for dumping solid waste from cleanup events at the County transfer station.

In response to Councilmember Gustafson, Mr. Bauer said the mandatory alternate bid item of a \$50,000 annual payment to support City programs to encourage recycling is meant to fund part of a recycling coordinator position on City staff.

Deputy Mayor Hansen confirmed Council consensus in support of the recommended RFP process.

## 7. CONTINUED PUBLIC COMMENT

(a) Kristina Stimson, 2155 NW 201<sup>st</sup> Street, discussed the City of Seattle program titled Leadership in Energy and Environmental Design (LEED). She recommended that the City consider the program during its preparation of the Development Code Phase 3 and in the development of a City Hall.

(b) Margi King, 20307 25<sup>th</sup> Avenue NE, recommended that the City enclose open ditches to minimize surface water drainage problems. She advocated the rehabilitation of Lyon Creek.

(c) Bill Bear, 2541 NE 165<sup>th</sup> Street, discussed the increasingly limited availability of affordable housing in Shoreline. He advocated the careful consideration of the issue in the next phase of the Development Code. He supported owner-occupied affordable housing—because it tends to result in more stable neighborhoods—and the wide distribution throughout Shoreline of high-density affordable housing.

## 8. ADJOURNMENT

At 9:06 p.m., Deputy Mayor Hansen declared the meeting adjourned.

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Sharon Mattioli, CMC  
City Clerk

May 22, 2000

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## CITY OF SHORELINE SHORELINE CITY COUNCIL SUMMARY MINUTES OF JOINT DINNER MEETING

Monday, May 22, 2000  
6:00 p.m.

Shoreline Conference Center  
Highlander Room

### *Shoreline City Council*

**PRESENT:** Mayor Jepsen, Deputy Mayor Hansen and Councilmembers Grossman, Gustafson, Montgomery and Ransom

**ABSENT:** Councilmember Lee

**STAFF:** Robert Deis, City Manager; Larry Bauman, Assistant City Manager; Kristoff Bauer, Assistant to the City Manager

### *Lake Forest Park City Council*

**PRESENT:** Mayor Hutchinson, Councilmembers Goss, Herzog, Kiest, Olstad, Sterner, Thompson

**ABSENT:** Councilmember Armanini

**STAFF:** Doug Jacobson, City Administrator; Sarah Phillips, Community and Government Affairs Manager

The meeting convened at 6:25 p.m. All Shoreline City Councilmembers were present with the exception of Councilmember Lee. All Lake Forest Park Councilmembers were present with the exception of Councilmember Armanini.

Mayor Jepsen welcomed the guests from Lake Forest Park. He explained the purpose of the meeting to address issues of mutual concern. He noted that such issues include water, the Endangered Species Act, transportation, transit and a Youth Council.

Mayor Jepsen mentioned that the City has been reviewing water services in Shoreline. He asked about the interests of Lake Forest Park in determining future water services.

Robert Deis, City Manager, explained that the City Comprehensive Plan calls for the City to be involved in utility services and to review delivery options. He noted the potential impact on Lake Forest Park, given that the Shoreline Water Department serves both cities.

May 22, 2000

Mayor Hutchinson said his first question is whether there is a potential benefit to Lake Forest Park customers within the Shoreline Water District. He stressed that Lake Forest Park has an interest in whatever Shoreline decides to do.

Deputy Mayor Hansen commented that the City may eventually be better off operating its own water utility. He noted that the tax revenues that Seattle Public Utilities (SPU) collects from the Shoreline customers it serves go to the City of Seattle budget.

Councilmember Thompson pointed out that the SPU wastewater system is similar to the SPU water system in the manner of deciding who should be the service provider for Lake Forest Park.

Councilmember Kiest inquired as to the benefits of assuming the Shoreline Water District. Kristoff Bauer, Assistant to the City Manager, explained that some costs could be reduced through efficiencies and the reduction of related overhead expenses.

Councilmember Thompson said the Lake Forest Park City Council has not done enough analysis of water services to develop an opinion on the issue.

Doug Jacobson, Lake Forest Park City Administrator, said Lake Forest Park is reserving judgment regarding water services. Regarding the wastewater utility, he noted that the city may want to exercise its option to manage the wastewater utility within Lake Forest Park.

Councilmember Kiest commented that Lake Forest Park citizens are not eager to lose their voting rights in the Shoreline Water District should the City of Shoreline assume the water district. He said those customers believe that they receive a high level of service.

Mr. Deis said the analysis of service should include the amount that customers pay for the level of service they receive. He asserted that cities provide a higher level of oversight and accountability because of the higher level of citizen participation.

Councilmember Grossman said one has to question the decisions of the Shoreline Water District when one considers the policies it is pursuing. He asserted that District plans to use water from Lake Washington are questionable given the unlikely possibility of obtaining the necessary water rights.

Councilmember Ransom questioned the actions of the Shoreline Water District regarding the Cascade Water Alliance.

Councilmember Thompson said Lake Forest Park does not want to be perceived as delaying a decision by Shoreline.

Councilmember Kiest said the city would like to work with the 40 percent of Shoreline Water District customers residing in Lake Forest Park.

May 22, 2000

## DRAFT

Mayor Jepsen asked the Lake Forest Park City Council to consider whether it would like to assess any of the information that City of Shoreline staff has gathered about water services and the Shoreline Water District or whether it wants to wait to respond to City of Shoreline actions.

Councilmember Thompson suggested that Shoreline send Lake Forest Park a formal letter outlining options regarding water services that Shoreline is considering that they wish Lake Forest Park to consider simultaneously.

Councilmember Goss recommended that in the interests of the citizens of each city, both city governments should work towards the goals of the highest, most efficiently run water district.

On another issue, Mayor Hutchinson thanked the Shoreline City Council for making the teen program at the Aldercrest Annex a partnership. He asserted the value of the cities' partnership in Club Kellogg as well. He said he would like to explore a partnership with the City of Shoreline in summer recreation programs in the schools.

Mr. Deis commented that the Shoreline and Lake Forest Park City Councils have similar philosophies: to keep youth active. He noted that the Shoreline City Council has invested in improving youth services.

Noting that Lake Forest Park and Shoreline both have students attending Shorecrest High School and Kellogg Middle School, Councilmember Kiest encouraged the city councils to collaborate on youth programs.

Mayor Jepsen thanked the Lake Forest Park City Council and staff for attending the joint meeting.

The meeting adjourned at 7:25 p.m.

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Larry Bauman, Assistant City Manager

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## CITY OF SHORELINE

### SHORELINE CITY COUNCIL SUMMARY MINUTES OF REGULAR MEETING

Monday, May 22, 2000  
7:30 p.m.

Shoreline Conference Center  
Mt. Rainier Room

**PRESENT:** Mayor Jepsen, Deputy Mayor Hansen, Councilmembers Grossman, Gustafson, Lee Montgomery and Ransom

**ABSENT:** None

1. **CALL TO ORDER**

The meeting was called to order at 7:30 p.m. by Mayor Jepsen, who presided.

2. **FLAG SALUTE/ROLL CALL**

Mayor Jepsen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present.

3. **REPORT OF CITY MANAGER**

Wendy Barry, Parks, Recreation and Cultural Services Director, reviewed the nomination form and process for selecting the Grand Marshall of the Celebrate Shoreline parade.

City Manager Robert Deis addressed construction along Thornton Creek at 2330 N 156<sup>th</sup> Place. He explained that neither Council nor staff responded to previous public comments about the issue because of imminent and actual legal action. He said staff used 50-year-old records, obtained from the State Department of Ecology, to identify the waterway at the property in question as a Class 2 stream. This necessitates a 65-foot buffer between the development and the stream. Mr. Deis said staff has advised the applicant and stopped work at the site. He went on to discuss the process the City followed in issuing the permit for the site. He commented that the applicant can submit a new application and request a variance, and staff can use criteria in the City code to determine whether to allow the variance.

In response to Councilmember Lee, Mr. Deis confirmed that the County records the City possessed did not identify the Class 2 stream at the property.

Councilmember Gustafson advocated the accurate classification of all streams in Shoreline. Mr. Deis advised that the records staff obtained from the Department of Ecology apply only to the property in question.

# DRAFT

Tim Stewart, Planning and Development Services Director, indicated that the new Development Code will include changes in how the City defines critical areas, streams and other aspects of the environment. He said the City will use the best available science as it locates and maps stream corridors to enable classifications to withstand challenges from all sides. He mentioned that staff will address these issues in more detail in its next presentation to Council on the Endangered Species Act.

4. REPORTS OF BOARDS AND COMMISSIONS: None

5. PUBLIC COMMENT

(a) Ken Howe, 745 N 184<sup>th</sup> Street, addressed agenda item 7 (d) regarding design services for the Richmond Highlands Recreation Center. He asked that the consultants meet with the neighborhood association before actively engaging in further design work.

(b) Gretchen Atkinson, 17714 15<sup>th</sup> Avenue NE, spoke as President of the North City Business Association. She thanked the Department of Community and Government Relations for assisting North City in its application for the Neighborhoods USA Neighborhood of the Year Award.

(c) Teresa Rinker, 17555 Fremont Avenue N, said City staff rejected an application for a permit to build a wrap-around porch at her house because the existing porch does not cover 60 percent of the face of the home. She requested the revision of this requirement. Noting the current lack of differentiation between a residential and commercial variance and the \$3,000 cost of a variance, she also requested the implementation of a process for lower-cost residential variances.

(d) Gretchen Atkinson, 17714 15<sup>th</sup> Avenue NE, noted the excitement of the North City Business Association about the upcoming design workshop for the North City Sub-area Plan. She said the association hopes to attract new businesses to locate in North City.

(e) Janet Way, 940 NE 147<sup>th</sup> Street, represented the Thornton Creek Legal Defense Fund and the Thornton Creek Watershed Management Committee. She expressed satisfaction with the recent court ruling against the City of Seattle and Simon Properties. She said she has advocated that the City of Seattle pay for revisions to a map that Seattle Public Utilities created of the Thornton Creek Watershed to reflect the outcome of the lawsuit.

(f) Patty Crawford, 2326 N 155<sup>th</sup> Street, said the City ignored concerns about construction at 2330 N 156<sup>th</sup> Place until she and her husband threatened to sue. She stated that the City has received the results of past scientific analyses which classified the waterway at the site as Coho salmon habitat. She said the State, not the County, regulates water and fish. She asserted the lack of variances from stream buffers. She favored the

# DRAFT

application of the reasonable use regulation of the new Development Code because a panel or judge would need to evaluate the situation.

(g) Tim Crawford, 2326 N 155<sup>th</sup> Street, distributed a copy of a letter from the State Department of Fisheries. He reiterated that the State regulates water and fish. He asserted that the City has ignored previous information about the waterway at 2330 N 156<sup>th</sup> Place.

Mayor Jepsen said the City developed a master plan for the Richmond Highlands Recreation Center with community input. He noted that the Parks, Recreation and Cultural Services Advisory Committee reviewed the master plan. Mr. Deis explained that planned improvements to the recreation center focus on interior mechanical systems. He said staff committed to obtain additional public input on the expenditure of any funds remaining after completion of these improvements.

Mr. Deis agreed that staff will follow up with Ms. Rinker.

Mr. Deis said the documentation that staff obtained from the State Department of Ecology provided the solid legal standing the City needed to stop work at 2330 N 156<sup>th</sup> Place.

Councilmember Montgomery advocated Council consideration of the cost of variances. Councilmembers Hansen and Ransom agreed. Mr. Deis said staff will review the issue for further Council consideration.

## 6. APPROVAL OF THE AGENDA

**Councilmember Montgomery moved approval of the agenda. Councilmember Lee seconded the motion, which carried 7-0.**

## 7. CONSENT CALENDAR

**Councilmember Lee moved adoption of the consent calendar. Councilmember Ransom seconded the motion, which carried 7-0, and the following items were approved:**

**Minutes of Regular Meeting of April 24, 2000  
Minutes of Workshop Meeting of May 1, 2000**

**Approval of expenses and payroll as of May 12, 2000 in the amount of \$1,231,723.02**

**Motion to authorize the City Manager to execute an agreement for design services for the North City Sub-area Plan with Lennertz, Coyle & Associates in the amount of \$60,000**



# DRAFT

**Motion to authorize the City Manager to execute an agreement for design services for the Richmond Highlands Recreation Center with Kubota Kato Chin Inc. in an amount of \$91,050**

8. **ACTION ITEMS: PUBLIC HEARING**

- (a) A public hearing to consider citizens comments regarding Phase 2 of the Development Code

Mr. Stewart addressed three technical corrections to the proposed Development Code.

**Mayor Jepsen opened the public hearing.**

(1) Ginger Botham, 16334 Linden Avenue N, presented a letter and discussed her concern about open space. She said the proposed Development Code shrinks open space noticeably. She noted the elimination of tot lots and the reduction of setbacks from 20 to 15 feet between single-family and multi-family development. She opposed the ten-foot minimum road width. She commented that surface water tracts can satisfy up to 50 percent of the open space requirement and that the slope of such tracts can be as much as 33 percent. She urged Council to revise the proposed code to increase open space requirements.

(2) Dennis Lee, 14547 26<sup>th</sup> Avenue NE, advocated revisions to the proposed code provisions related to open recreational space, setbacks between single-family and multi-family development and design standards. He recommended that the City act soon to classify streams.

(3) Bill Bear, 2541 NE 165<sup>th</sup> Street, reviewed written testimony in which he advocated the restoration of the design standards deleted by the Planning Commission's acceptance of amendments 156-159.

(4) Janet Way, 940 NE 147<sup>th</sup> Street, advocated adoption of amendment 280, which would require the daylighting of a creek, when feasible, in the case of new development. She recommended that staff replace all references to "drainage ditch" with "creek." She referenced the decision in the court case against the City of Seattle and Simon properties as support for this point of view.

(5) Harry Allen, 1820 NW 195<sup>th</sup> Street #3, spoke as President of the Park Richmond Condominiums Association. He said the Comprehensive Plan limited mixed-use buildings to three stories and 35 feet in height. He noted that the proposed Development Code allows such buildings up to four stories and 60 feet in height, provided the extra story is stepped back from the street wall at least eight feet. He asserted that the step-back provision for the extra story does not mitigate the height of the building for neighboring property owners. He advocated protection of neighboring property owners by requiring that the bonus floor be stepped back from all walls at least eight feet.

# DRAFT

(6) Randy Bannecker, 2240 E Blaine Street, Seattle, represented the Seattle-King County Association of Realtors. He supported the proposed Development Code. He said it promotes housing development consistent with the existing community.

(7) Peter Schwindt, 2209 NE 177<sup>th</sup> Street, commented on the success of the Planning Academy in which he participated. He asserted that staff incorporated the community values that participants expressed in the proposed Development Code. He advocated the restoration of the design standards, an increase in the amount of recreational open space required in multi-family development and an increase in the size of setbacks between single-family and multi-family development.

(8) Rob Hill, 17104 13<sup>th</sup> Avenue NW, advocated the inclusion of a conditional-use process in the proposed Development Code to allow the City to consider exceptions to height limitations. He explained that property he owns in a high-density residential zone is limited to 35 feet in height; whereas adjoining properties could be zoned as community business, accommodating buildings up to 60 feet in height.

(9) Rob Garwood, 155 NW 183<sup>rd</sup> Street, asserted that the City will have difficulties enforcing regulations in the proposed Development Code regarding fences. He advocated his amendment to remove the restriction on six-foot fences in front yards (amendment 274) or an amendment to revise the definition of "front yard" to achieve the uniform application of the restriction on six-foot fences to through, corner and interior lots.

(10) Felicia Schwindt, 2209 NE 177<sup>th</sup> Street, supported the provisions of Chapter V, Section 5 regarding tree conservation.

(11) Naomi Hardy, 17256 Greenwood Place N, strongly advocated amendment 150 to require that new and newly remodeled water and wastewater utility lines be connected to public utility lines in front of the property. She supported amendment 156.

(12) Jim Soules, 195 Second Street, Langley, represented The Cottage Company, which developed the Third Street Cottages in Langley. He provided materials addressing issues raised during meetings of the Planning Commission.

(13) John Chang, 14817 Aurora Avenue N, spoke as owner of Quest Inn. He said the current code requires motels to provide one parking space per unit. He said this requirement does not reflect his 18 years of experience at Quest Inn, where as many as nine parking spaces remain unused when the motel is full. He noted that many customers use bus transportation or come in groups. He asked Council to consider changing the requirement to .8 or .7 spaces per unit.

(14) Walt Hagen, 711 N 193<sup>rd</sup> Street, supported the earlier comment that the bonus floor on a mixed-use building should be stepped back from all walls at

least eight feet. He expressed support for the revision of the proposed code to require more recreational open space. He stressed the importance of design standards. He advocated amendments 164 and 165.

(15) George Mauer, 1430 NW 191<sup>st</sup> Street, advocated amendment 163 in favor of a setback between multi-family and single-family development of 20 feet.

**Councilmember Montgomery moved to close the public hearing. Councilmember Lee seconded the motion, which carried 7-0, and the public hearing was closed.**

Mayor Jepsen identified three frequently-repeated comments during the public hearing: support for additional recreational open space in multi-family development; support for increasing the size of setbacks between single-family and multi-family development; and support for design standards. He suggested that staff address the public comments and that Council take time to consider the information before proceeding. Council agreed.

Mayor Jepsen suggested that staff and Council address the classification of streams in Shoreline during the two upcoming discussions about the Endangered Species Act. Councilmember Gustafson agreed.

In response to Mayor Jepsen, Mr. Stewart explained that amendment 280 would revise VIII.8.D-3 of the proposed Development Code to read "The City shall ~~may~~ require that a culvert be removed from a stream as a condition of approval. . . ." He said the Planning Commission advocated that the removal of culverts be left to the applicant's discretion. Councilmembers Gustafson, Lee and Montgomery supported the existing language.

In response to Deputy Mayor Hansen, Anna Kolousek, Assistant Director, Planning and Development Services, said properties to the north of the Park Richmond Condominiums are zoned neighborhood business. She acknowledged that Exception B-1.1d in V.4 of the proposed development code will allow mixed-use buildings in this zone up to four stories or 60 feet.

In response to Mayor Jepsen, Ms. Kolousek acknowledged that Figure B-1.1e in V.4 of the proposed development code does not represent the text of Exception B-1.1d exactly. She explained that the exception, as currently written, does not require that the bonus floor be stepped back from the side and back walls of the building, unless the building occupies the corner of two streets.

In response to Councilmember Lee, Mayor Jepsen confirmed that properties north of the Park Richmond Condominiums are zoned residential and that the properties east and west of the property are zoned neighborhood business.

Mr. Stewart suggested that staff reconsider Exception B-1.1d in terms of where it would apply in Shoreline and that staff prepare alternatives for Council consideration. There was Council consensus in support of this suggestion.

# DRAFT

Mayor Jepsen commented that he is more comfortable with the bonus floor pictured in Figure B-1.1e than with that allowed in Exception B-1.1d.

In response to Mayor Jepsen, Mr. Stewart said the reduction in the maximum height of multi-family buildings (from 60 feet to 35 feet) is offset, in part, by the decrease in the size of the setbacks between single-family and multi-family development (from 20 feet to 15 feet). He agreed that staff will address the maximum height as an aspect of the information it prepares for Council regarding the size of setbacks.

Councilmember Grossman asserted that it would not be economically possible to achieve the allowed density in a multi-family zone given the height limitation. He said rental rates in Shoreline are not sufficient to justify underground parking, and surface parking will seriously limit the size of a building on a multi-family site. Mr. Stewart explained that the City established the 35-foot maximum height in the Comprehensive Plan.

Mr. Stewart noted extensive debate at the Planning Academy and Planning Commission of the restriction on fence height in front yards.

Councilmember Ransom said six families in his neighborhood agreed to a 20-foot easement for an alley behind their homes. He opposed requirements that would subject these families to additional setbacks or that would prohibit them from constructing a six-foot fence along the easement. He asked staff to provide additional information on this issue for Council consideration at its next meeting.

Mr. Stewart read V.2.C-3.1. He said the proposed code allows six-foot fences on an alley with a 20-foot setback. He noted the need to modulate such a fence to avoid creating a "tunnel" effect (V.2.C-3.2).

Noting that the easement Councilmember Ransom described runs behind the homes, along their rear yards, Ms. Kolousek said rear yard fences can extend to the property line; whereas, front yard fences are restricted.

Mayor Jepsen explained his understanding that V.2.C-3.2 was meant to address fences along private roads accessing new homes on short plats behind older homes. He said such fences run along the side yards of the older homes. Therefore, he suggested that the proposed code focus on fences along side yards.

Deputy Mayor Hansen asserted that the proposed code should define hedges and that hedges serving as fences should be treated as fences.

Councilmember Lee advocated revision and clarification of V.2.C-3. She went on to ask how the City will enforce restrictions on fences. Mr. Stewart said the City would allow all existing structures to continue as legal, non-conforming uses. He explained that the City would apply the restrictions to new development permits. He mentioned the City's code enforcement program as the means to address new structures that violate the Development Code.

# DRAFT

Councilmember Grossman advocated City efforts to educate property owners about the Development Code to prevent violations and code enforcement actions.

Mr. Stewart agreed that staff will revise V.2.C-3 in an effort to clarify it further.

Mayor Jepsen addressed amendment 150. Mr. Stewart acknowledged the logic of the amendment for the installation of utilities in a new subdivision. He asserted that the amendment is impractical in Shoreline where utilities have already been installed in almost every area.

Mr. Stewart went on to address minimum parking requirements. He said the City should be able to waive parking standards for developments that depend on mass transit. He referenced V.6.B-2.2, under which the Director may approve a reduction of up to 50 percent of the minimum required number of spaces.

Mayor Jepsen returned to the issue of the size of setbacks between single-family and multi-family development. Ms. Kolousek said the size of the setback relates to the height of the multi-family development and perception of the development from a distance. She acknowledged the 20-foot setback in the previous code, but she noted the reduction of the maximum height from 60 feet in the previous code to 35 feet in the proposed code. She noted that the previous code stipulated the same maximum height for single-family residences. She indicated that this reduction in maximum height, combined with the design standards for multi-family developments in the proposed code (e.g., modulation of the façade, modulation of the roof line and landscaping requirements), justified the 15-foot setback.

Referring to Ms. Botham's letter, Councilmember Lee expressed concern about the ten-foot minimum width of joint-use driveways in the proposed code. Ms. Kolousek explained that the ten-foot minimum width applies only to single-family driveways (Engineering Development Code [Attachment A], page 8).

Councilmember Ransom read the definition of hobby kennel in King County Code 21.04.525: "Hobby kennel" means a noncommercial kennel at or adjoining a private residence where four or more adult small animals are bred and/or kept for hunting, training and exhibition for organized shows, field, working and/or obedience trials, or for the enjoyment of an identifiable species." He noted that the proposed code limits the number of small animals to three per household. He suggested the addition of a "hobby kennel" provision.

Mr. Stewart pointed out that the definition Councilmember Ransom read was from the 1993 King County Code. He said the County removed the definition before the City adopted portions of the King County Code by reference. He commented that staff could add a "hobby kennel" provision to IV.2.B, "Use Tables," of the proposed code.

# DRAFT

In response to Mayor Jepsen and Councilmember Gustafson, Councilmember Ransom estimated at least 100 hobby kennels currently located in Shoreline. He said he talked recently with two hobby kennel owners.

Councilmember Montgomery asked why the County removed the definition of hobby kennel from its code. Mr. Stewart said staff would research the removal and report back to Council.

Deputy Mayor Hansen commented that staff should add "Bull trout" to the definition of "Salmonid" in Chapter II of the proposed code.

Mayor Jepsen confirmed Council direction to staff to provide additional information on the following: Section V.2.C-3; mixed-use development; hobby kennels; design standards; setbacks; and open space. Mr. Deis requested policy direction from Council on these items.

Mr. Stewart explained the policy issue of design standards as a question of whether to include Sections V.2.C-1 and V.2.C-2. Councilmember Gustafson requested that staff provide the arguments for and against the inclusion of these sections. Mayor Jepsen asserted the need for further Council discussion.

Mayor Jepsen compared the issue of setbacks between multi-family and single-family development to that of mixed-use development. He requested additional information in order to understand better the setbacks that staff has proposed.

Regarding open space, Mr. Stewart referenced pages 153 and 154 of the proposed code. He noted V.3. Exception B-4.1b as the focus of contention. He said staff will develop information for Council about the positive and negative aspects of the proposed language.

Mayor Jepsen advocated additional discussion regarding V.3. Exception B-4.1c as well.

Councilmember Lee expressed concern about smaller setbacks between multi-family and single-family development combined with smaller minimum road widths. Mr. Stewart said staff will work to clarify the distinction between "driveway" and "road."

Councilmember Lee went on to express concern about V.3. Exception B-4.1b.

Councilmember Gustafson expressed his inclination to eliminate V.3. Exception B-4.1b in favor of preserving open spaces. He advocated further Council discussion of the issue.

There was Council consensus in favor of additional time for further Council consideration of the proposed code. Council will consider Ordinance No. 238 at its June 12 regular meeting.

## MEETING EXTENSION

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At 9:58 p.m., Councilmember Gustafson moved to extend the meeting until 10:15 p.m. Councilmember Lee seconded the motion, which carried unanimously.

## 9. CONTINUED PUBLIC COMMENT

(a) Ginger Botham, 16334 Linden Avenue N, discussed the history of the maximum height in R-8 and R-12 zones. She said the comprehensive plan that the County adopted for the area of Shoreline in 1995 increased the maximum height for R-8 and R-12 zones from 35 feet to 60 feet. She stressed that the proposed Development Code merely returns the maximum height to that in effect before the County action.

(b) Rob Hill, 17104 13<sup>th</sup> Avenue NW, reiterated his request for a conditional-use process in the proposed Development Code to allow the City to consider site-specific exceptions to the 35-foot height limitation. He agreed that a 60-foot multi-family development 15 feet from a single-family home would be unreasonable. He explained that the property he owns is located in a high-density area of office and apartment buildings. He said the County issued a building permit for the site prior to the incorporation of the City; however, the permit was omitted from the list of active projects that vested at the time of incorporation.

(c) Matt Howland, 19237 Aurora Avenue N, noted the competing goals in Shoreline of preserving large residential lots and meeting the requirement for new housing under the Growth Management Act (GMA). He encouraged Council to consider the difficulty of constructing a multi-family development of 48 marketable and affordable units given the 35-foot maximum height and the open space, setback and parking requirement in R-48 zones. He commented that young families and retired elderly residents need affordable housing.

In response to Mayor Jepsen, Mr. Stewart noted potential alternatives to address Mr. Hill's situation (e.g., a sub-area or small area plan for the property; a request during the annual review of the Comprehensive Plan for a new designation in conjunction with a rezone).

Councilmember Gustafson expressed his appreciation for the citizen input and staff development of the proposed code.


## 10. ADJOURNMENT

At 10:10 p.m., Mayor Jepsen declared the meeting adjourned.

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Sharon Mattioli, CMC  
City Clerk

**CITY COUNCIL AGENDA ITEM**  
**CITY OF SHORELINE, WASHINGTON**

<b>AGENDA TITLE:</b> Approval of Expenses and Payroll as of May 26, 2000
<b>DEPARTMENT:</b> Finance
<b>PRESENTED BY:</b> Al Juarez, Financial Operations Supervisor 

**EXECUTIVE / COUNCIL SUMMARY**

It is necessary for the Council to approve expenses formally at the meeting. The following claims expenses have been reviewed by C. Robert Morseburg, Auditor on contract to review all payment vouchers.

**RECOMMENDATION**

Motion: I move to approve Payroll and Claims in the amount of \$609,068.74 specified in the following detail:

Payroll and benefits for April 30 through May 13 in the amount of \$245,574.18 paid with ADP checks 4198 through 4258 vouchers 200001 through 200107 benefit checks 4527 through 4536 and

**the following claims examined by C. Robert Morseburg paid on May 19, 2000:**

Expenses in the amount of \$36,829.74 paid on Expense Register dated 5/17/00 with the following claim checks: 4437-4456 and

Expenses in the amount of \$64,106.70 paid on Expense Register dated 5/17/00 with the following claim checks: 4457-4467 and

Expenses in the amount of \$194,386.89 paid on Expense Register dated 5/19/00 with the following claim checks: 4468-4525 and

**the following claims examined by C. Robert Morseburg paid on May 26, 2000:**

Expenses in the amount of \$411.00 paid on Expense Register dated 5/19/00 with the following claim check: 4526 and



Expenses in the amount of \$33,920.70 paid on Expense Register dated 5/23/00 with the following claim checks: 4537-4541 and

Expenses in the amount of \$1,322.96 paid on Expense Register dated 5/24/00 with the following claim checks: 4542-4547 and

Expenses in the amount of \$152.48 paid on Expense Register dated 5/24/00 with the following claim check: 4548 and

Expenses in the amount of \$4,296.33 paid on Expense Register dated 5/24/00 with the following claim check: 4549 and

Expenses in the amount of \$8,500.56 paid on Expense Register dated 5/24/00 with the following claim checks: 4550-4567 and

Expenses in the amount of \$19,567.20 paid on Expense Register dated 5/25/00 with the following claim checks: 4568-4583

Approved By: City Manager \_\_\_\_\_ City Attorney \_\_\_\_\_

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Ordinance No. 239 Amending Metricom Franchise Ordinance No. 100 to Implement Blanket Permitting and Clarify Franchise Fee
<b>DEPARTMENT:</b>	City Manager's Office
<b>PRESENTED BY:</b>	Kristoff T. Bauer, Assistant to the City Manager

**EXECUTIVE / COUNCIL SUMMARY**

The City granted Metricom, a wireless digital point-to-point data communications provider, a franchise to operate in the City effective August 24, 1996. The proposed ordinance before our Council tonight amends that franchise ordinance in two significant ways. First, it clarifies that Metricom is either subject to the City's 6% utility tax or a 6% franchise fee. Second, it adds language granting Metricom a Blanket Permit for selected activities in the right-of-way.

As some of your Council may recall, Metricom operates through the utilization of shoebox size radio repeaters that are attached to streetlights. Metricom services are marketed under the Ricochet Network trade name and include internet service or dedicated mobile local area network connectivity. The franchise granted in August of 1996 provided for a franchise fee of 4% deferred until 1998. At the time the franchise was granted, Metricom's position was that it was not a Telecommunications Business as defined by state law and, therefore, a franchise fee was appropriate. In 1998, after making one quarterly franchise fee payment of just under \$140, Metricom notified the City that it had received a Washington State Department of Revenue ruling that it was in fact a Telecommunications Business. As a result, they asserted that the franchise fee provision of the franchise was invalid, but that they would be subject to a utility tax if adopted. Metricom has complied with the City's utility tax adopted in 1999.

During discussions regarding what became ESSB 6676, the Right-of-Way Bill, the Metricom representative indicated that, while they intended to comply with the City's utility tax, Metricom was considering business changes designed to remove them from the definition of Telecommunications Business. This would remove them from state regulation and utility tax obligations, but make them subject to franchise fees. The proposed amendment to Section 14 of the franchise was developed in cooperation with Metricom specifically to make the City uninterested in future business form decisions that Metricom may make. (See Attachment A) Metricom is currently subject to the City's 6% utility tax. If they take action designed to exempt themselves from this tax, then they will be subject to a 6% franchise fee. This is consistent with the policy established by your Council in amending SMC 12.25.090 (A) in late 1999 (See Attachment B)


The addition of Section 9 Blanket Permit is the only other significant change recommended for the Metricom franchise. This language was developed by the City's Planning & Development Services staff to ease the workload of the City inspection staff in regards to routine activities in the right-of-way with little risk to transportation, public safety, or City infrastructure. It also reduces the fees paid by the utility and the level of effort necessary to accomplish these routine tasks. The proposed language has been included in several franchises beginning in 1998 and has served the interests of both the City and franchised utilities.

Metricom is in the process of improving the capacity and connection speed of its system through the installation of new and additional radio repeaters. The new systems are not significantly different in appearance, but the number of repeaters is being increased from 10 to about 20 depending on topography and the eventual locations approved by the City.

Metricom has worked well with the City since the approval of their franchise in 1996. Staff is not aware of any complaints or concerns stemming from their activity in the right-of-way. The proposed amendment is simply a clarification and positive evolution of an ongoing positive relationship.

#### **RECOMMENDATION**

Adopt Ordinance No. 239 amending Ordinance No. 100: A Franchise With Metricom, Inc., for a wireless data communications system within City rights-of-way, to change provisions for utility fees and taxes based on a change in business operations of the franchisee.

Approved By: City Manager 

City Attorney 

#### **ATTACHMENTS**

**Attachment A:** Proposed Ordinance No. 239 Amending Ordinance No. 100: A Franchise With Metricom, Inc., For A Wireless Data Communications System Within City Rights-Of-Way, To Change Provisions For Utility Fees And Taxes Based On A Change In Business Operations Of The Franchisee.

**Attachment B:** Shoreline Municipal Code 12.25.090 (A)

## **Attachment A:**

Proposed Ordinance No. 239 Amending Ordinance No. 100: A Franchise With Metricom, Inc., For A Wireless Data Communications System Within City Rights-Of-Way, To Change Provisions For Utility Fees And Taxes Based On A Change In Business Operations Of The Franchisee.

## ORDINANCE NO. 239

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING ORDINANCE NO 100: A FIVE-YEAR FRANCHISE WITH METRICOM, INC. A DELAWARE CORPORATION, FOR A WIRELESS DATA COMMUNICATIONS SYSTEM WITHIN CITY RIGHTS-OF-WAY, TO CHANGE PROVISIONS FOR UTILITY FEES AND TAXES BASED ON A CHANGE IN BUSINESS OPERATIONS OF THE FRANCHISEE.**

WHEREAS, RCW 35A.11.020 grants the City broad authority to regulate the use of the public right-of-way; and

WHEREAS, RCW 35A.47.040 grants the City broad authority to grant non-exclusive franchise agreements and Ordinance No. 100, passed August 12, 1996, granted a five-year franchise for constructing, maintaining and operating an underground fiber optic telecommunications system to Metricom, Inc.

WHEREAS, the Council finds that it is in the best interests of the health, safety and welfare of residents of the Shoreline community to amend the non-exclusive franchise to Metricom, Inc., for the operation of a telecommunications system within the City right-of-way; NOW, THEREFORE,

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

**Section 1. Amendment.** City of Shoreline Ordinance No. 100 is amended to read as set forth below (hereinafter "Amended Franchise"):

**Section 1. Definitions.** The following terms contained herein, unless otherwise indicated, shall be defined as follows:

- 1.1 **City:** The City of Shoreline, a municipal corporation of the State of Washington, specifically including all areas incorporated therein as of the effective date of this ordinance and any other areas latter added thereto by annexation or other means.
- 1.2 **Days:** Calendar days.
- 1.3 **Metricom:** Metricom, Inc. a Delaware corporation, and its respective successors and assigns.
- 1.4 **Facilities:** All wires, lines, cables, conduits, equipment, radio receivers/transmitters, modems, antennas, and supporting structures, located in the City's right-of-way, utilized by the grantee in the operation of activities

authorized by this Ordinance. The abandonment by grantee of any facilities as defined herein shall not act to remove the same from this definition.

1.5 Grantee: As incorporated or used herein shall refer to Metricom.

1.6 Gross Annual Revenues: "Gross Revenues" means the gross dollar amount accrued on Metricom's books for Services provided to its customers with billing addresses in the City, excluding (i) ~~the franchise fee required by Section 14.2 below,~~ (ii) local taxes and fees, and state, or federal taxes collected by Metricom that have been billed to the subscriber and separately stated on such bill, and (iii) revenue that was projected or expected under Metricom's accrual-basis accounting system that Metricom did not actually receive because uncollectible from subscribers (i.e., bad debts) with billing addresses in the City ~~or otherwise~~.

1.7 Permittee: A person who has been granted a permit by the Permitting Authority.

1.8 Permitting Authority: The head of the City department authorized to process and grant permits required to perform work in the City's right-of-way, or the head of any agency authorized to perform this function on the City's behalf. Unless otherwise indicated, all references to Permitting Authority shall include the designee of the department or agency head.

1.9 Person: An entity or natural person.

1.10 Public Works Director: The head of the Public Works department of the City, or in the absence thereof, the head of the Development Services Group of the City, or the designee of either of these individuals.

1.11 Radios: "Radios" means that radio equipment to be installed and operated by Metricom hereunder.

1.12 Ricochet™: "Ricochet" means Ricochet MicroCellular Digital Network, a wireless digital communications microcellular radio network owned and operated by Metricom.

1.13 Right-of-way: As used herein shall refer to the surface of and the space along, above, and below any street, road, highway, freeway, lane, sidewalk, alley, court, boulevard, parkway, drive, utility easement, and/or road right-of-way now or hereafter held or administered by the City of Shoreline.

1.14 Services: "Services" means the wireless digital communications services provided through Ricochet by Metricom.

## **Section 2. Franchise Granted.**

2.1 Pursuant to RCW 35A.47.040, the City hereby grants to Metricom, its heirs, successors, and assigns, subject to the terms and conditions hereinafter set

forth, a franchise (the "Franchise") for a period of five (5) years, beginning on the effective date of this Ordinance. The term of this Franchise shall be renewed automatically for two (2) successive five-year periods on the same terms and conditions set forth herein unless either Metricom or the City notifies the other party of its intention not to renew on or before the date which is six (6) months prior to commencement of the relevant succeeding renewal term.

**2.2** Any and all rights expressly granted to Metricom under this Franchise, which shall be exercised at Metricom's sole cost and expense, shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Public Right-of-Way only, exclusively or concurrently, with any other Person or Persons, and further shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title which may affect the Public Right-of-Way. Nothing in this Franchise shall be deemed to grant, convey, create, or vest a perpetual real property interest in land in Metricom, including any fee or leasehold interest, or easement.

**2.3** The City hereby recognizes and consents to Metricom's right to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace its Radios in or on street light poles, power poles, or other property owned by public utility companies or other property owners located within the Public Right-of-Way as may be permitted by the public utility company or property owner, as the case may be for the purposes of providing Services to Persons located within or without the limits of the City. Metricom shall furnish to the city documentation of said permission from the individual utility/property owner responsible. Any work performed pursuant to the rights granted under this Franchise may, at the City's option, be subject to the prior review and approval of the City. During the term of this Franchise, the location of each Radio installed by Metricom or its designee shall be disclosed, in writing, to the City by Metricom within thirty (30) days after its installation, removal, or relocation. Such identifications shall be incorporated in Exhibit A to this Franchise. Nothing in this section or elsewhere in this Franchise shall be construed as excusing Metricom from compliance with applicable portions of the City's ordinary permit review process.

**2.4** Except as permitted by applicable Laws or this Franchise, in the performance and exercise of its rights and obligations under this Franchise, Metricom shall not interfere in any manner with the existence and operation of any and all public and private rights-of-way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, electroliners, cable television, and other telecommunications, utility, and municipal property without the express written approval of the owner or owners of the affected property or properties.

**2.5** Metricom shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Franchise.

**Section 3.     Non-Exclusive Franchise Grant.** This Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, or across any right-of-way, provided such subsequent franchises shall not interfere with Metricom's radio signals emanating or directed to the Radios or physically displace such Radios. Such Franchise shall in no way prevent or prohibit the City from using any right-of-way or other public property or affect its jurisdiction over them or any part of them, and the City shall retain the authority to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of the same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new right-of-ways or other public properties of every type and description.

**Section 4.     Relocation of Wireless Data Communication System Facilities.**

4.1     Metricom agrees and covenants at its sole cost and expense, to protect, support, temporarily disconnect, relocate or remove from any right-of-way its facilities when so reasonably required by the City, provided that Metricom shall in all such cases have the privilege to temporarily bypass, in the authorized portion of the same right-of-way upon approval by the City, any facilities required to be temporarily disconnected or removed.

4.2     If the City determines that a public project or property management necessitates the relocation of Metricom's existing facilities, the City shall:

4.2.1   At least sixty (60) days prior to the commencement of such project, provide Metricom with written notice requiring such relocation; and

4.2.2   Provide Metricom with copies of any plans and specifications pertinent to the requested relocation and a proposed temporary or permanent relocation for Metricom's facilities.

4.2.3   After receipt of such notice and such plans and specifications, Metricom shall complete relocation of its facilities at no charge or expense to the City at least ten (10) days prior to commencement of the project.

4.3     Metricom may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise Metricom in writing if any of the alternatives is suitable to accommodate the work that otherwise necessitates the relocation of the facilities. If so requested by the City, Metricom shall submit additional information to assist the City in making such evaluation. In the event the City ultimately determines that there is no other reasonable alternative, Metricom shall relocate its facilities as provided in this section.

4.4     The provisions of this Section shall in no manner preclude or restrict Metricom from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person other than the City, where the improvements to be constructed by said person are not or will not



become City-owned, operated or maintained, provided that such arrangements do not unduly delay a City construction project.

4.5 Whenever any person shall have obtained permission from the City to use any right-of-way for the purpose of moving any building or other oversized structure, Metricom, upon fourteen (14) days written notice from the City, shall raise or remove, at the expense of the Permittee desiring to move the building or structure, any of Metricom's facilities that may obstruct the movement thereof; provided, that the moving of such building or structure shall be done in accordance with regulations and general ordinances of the City. Where more than one path is available for the moving of such building or structure, the path of least interference, as determined by the City, shall be utilized.

**Section 5. Metricom's Maps and Records.** As a condition of this Franchise, and at its sole expense, Metricom agrees to provide the City with as-built plans, maps, and records that show the vertical and horizontal location of its facilities within the right-of-way using a minimum scale of one inch equals one hundred feet (1"=100'), measured from the center line of the right-of-way, which maps shall be in hard copy plan form acceptable to the City and in Geographical Information System (GIS) or other digital electronic format acceptable to the City. This information shall be provided between one hundred twenty (120) and one hundred eighty (180) days of the effective date of this Ordinance and shall be updated upon reasonable request by the City.

**Section 6. Incorporation By Reference.** Shoreline City Ordinance No. 83, Establishing Minimum Requirements, Procedures, And Application Information For Franchises Within Shoreline, as currently written and as hereafter amended, is hereby incorporated herein by this reference. In the event of a conflict between Ordinance No. 83 and this Ordinance, this Ordinance shall control over any conflicting provisions incorporated by this Section. Notwithstanding the foregoing, the parties agree that, in light of Metricom's status as a publically-traded corporation listed on NASDAQ, the reporting requirements stated in subsections 10(A)(2) and 10(A)(6) of Ordinance 83 shall be satisfied for all purposes under this Franchise by Metricom's public annual report filed with the Securities Exchange Commission.

**Section 7. Undergrounding.** Metricom hereby affirms its understanding and agreement that its activities within the City must comply with Shoreline City Ordinance No. 82, Establishing Minimum Requirements And Procedures For The Underground Installation Of Electric And Communication Facilities Within Shoreline, as currently written and as hereafter amended, and in exchange for an exemption from the requirements of Section 6(b) of that ordinance, and in accord with Section 6(b)(1) thereof, Metricom hereby agrees and covenants to the following:

7.1 Information - Metricom shall provide to the City of Shoreline, or any entity that has noticed Metricom of a joint trenching project under Section 12 of Shoreline City Ordinance No. 82, all reasonably requested information regarding the nature and location of facilities installed, owned, operated, or maintained by

Metricom within a proposed undergrounding area. Said information will be provided within a reasonable period of time, not to exceed thirty (30) days following the request.

7.2 Notice - Metricom shall respond to any notification pursuant to Section 12 of Shoreline City Ordinance No. 82, within 45 days following such notification with written commitment either to participate in the proposed project or to remove its facilities.

7.3 Cost - Metricom agrees to bear its proportionate share of all costs common to participants in any joint trenching project and to bear the entire cost of all materials and labor particularly necessary for the underground installation of its facilities and, upon the completion of that installation, the removal of the overhead facilities replaced thereby.

7.4 Exempted Facilities - Metricom shall, whenever possible, install any of Metricom's facilities exempted from undergrounding by Section 4 of Shoreline City Ordinance No. 82 onto facilities also exempted from undergrounding by that Section. Any of Metricom's exempt facilities installed on non-exempt facilities shall be removed or relocated, at Metricom's sole cost and expense, from said non-exempt facilities within sixty (60) days of Metricom's receipt of written notification from the Permitting Authority or the Permittee that a permit has been granted for an undergrounding project that will cause the removal of said non-exempt facilities.

#### **Section 8. Right-Of-Way Operations And Notice Of Entry.**

8.1 During any period of constructing, relocation or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the right-of-way so as to interfere as little as possible with the safe and unobstructed passage of traffic and the unobstructed use of adjoining property. Metricom shall at all times post and maintain proper barricades and comply with all applicable safety regulations, including the Uniform Traffic Control Manual, during such period of construction as required by the ordinances of the City or state law, including RCW 39.04.180, for the construction of trench safety systems.

8.2 Whenever Metricom enters upon any right-of-way for the purpose of installation, construction, repair, maintenance or relocation of its facilities, it shall apply to the City for a permit to do so in accord with the ordinances and regulations of the City requiring permits to operate in the right-of-way. In no case shall any work commence within any right-of-way without a permit, except as otherwise provided in this Ordinance. During the progress of the work, Metricom shall not unnecessarily obstruct the passage or use of the right-of-way, and shall provide the City with plans, maps, and information showing the proposed and final location of any facilities in accord with Section 5 of this Ordinance.

8.3 At least ten (10) days prior to its intended construction of facilities, Grantee shall inform all residents in the affected area, that a construction project

will commence, the dates and nature of the project, and provide a toll-free or local number which the resident may call for further information. A pre-printed door hanger may be used for this purpose.

8.4 At least twenty-four (24) hours prior to entering right-of-way adjacent to or on private property to perform the installation, maintenance, repair, reconstruction, or removal facilities, a written notice describing the nature and location of the work to be performed shall be physically posted upon the affected private property by the Grantee.

#### **Section 9. Blanket Permit.**

The terms "Minor Activities" and "Blanket Activities" shall be defined in a specifically negotiated Blanket Permit Definitions, a copy of which has been filed with the City Clerk and identified by Clerk's Receiving Number \_\_\_\_\_.  
Metricom shall be authorized to perform Minor Activities without a City permit of any kind and Blanket Activities under the terms and conditions of this Section.  
All other activities will require a separate permit in accordance with City ordinances.

9.1 Metricom shall pay the City a permit inspection/processing fee for Blanket Activities in the amount set out in Blanket Permit Definitions.

9.2 Metricom shall provide a quarter list of Blanket Permit construction activity by the 10<sup>th</sup> of the first month of the quarter (April, July, October, and January respectively) listing the previous quarter's activity authorized under this Section.

9.3 Metricom shall provide payment of inspection fees for Blanket Permit activity on a quarterly basis in conjunction with the list provided for in the previous paragraph. No statement will be provided by the City.

9.4 For each separate use of the Right-of-Way for Blanket Activities under this Section, and prior to commencing any work on the Right-of-Way, Metricom shall:

9.4.1 Fax or otherwise deliver to the Permitting Authority, at least twenty-four (24) hours in advance of entering the Right-of-Way, a City Inspection Request Form, as provided by the Permitting Authority, which shall include at a minimum the following information: franchise ordinance number, street address nearest to the proposed work site; parcel number and description of work to be performed.

9.4.2 Fax or deliver to the Permitting Authority a notice of completion in the form provided by the Permitting Authority within twenty-four (24) hours after completing work.

9.5 In the event Metricom fails to comply with any of the conditions set forth in this Section, the City is authorized to terminate Metricom's authority to operate under this Section after providing Metricom 10 day advance written notice of such termination and the basis therefore.

9.6 The City reserves the right to alter the terms and conditions of Section 9 and of Blanket Permit Definitions by providing thirty (30) days written notice to Metricom. Any change made pursuant to this Paragraph, including any change in the inspection fee stated in Blanket Permit Definitions, shall thereafter apply to all subsequent work performed pursuant to this Section. Further, the City may terminate Metricom's authority to work in the City's Right-of-Way under the terms of this Section at any time without cause by providing thirty (30) days written notice to Metricom. Notwithstanding any termination, Metricom will not be relieved of any liability to the City.

**Section 9.10. Emergency Work, Permit Waiver.** In the event of any emergency where any facilities located in the right-of-way are broken or damaged, or if Metricom's construction area for their facilities is in such a condition as to place the health or safety of any person or property in imminent danger, Metricom shall immediately take any necessary emergency measures to repair or remove its facilities without first applying for and obtaining a permit as required by this Franchise. However, this emergency provision shall not relieve Metricom from later obtaining any necessary permits for the emergency work. Metricom shall apply for the required permits not later than the next business day following the emergency work.

**Section 10.11. Recovery of Costs.** Metricom shall be subject to all permit fees associated with activities undertaken pursuant to this Franchise or other ordinances of the City. If the City incurs any costs and/or expenses for review, inspection or supervision of activities undertaken pursuant to this Franchise or any ordinances relating to a subject for which a permit fee is not established, Metricom shall pay the City's costs and expenses. In addition, Metricom shall promptly reimburse the City for any costs the City reasonably incurs in responding to any emergency involving Metricom's facilities.

**Section 11.12. Dangerous Conditions, Authority for City to Abate.**

12.1 Whenever installation, maintenance or excavation of facilities authorized by this Franchise causes or contributes to a condition that appears to substantially impair the lateral support of the adjoining right-of-way, public or private property, or endangers any person, the Public Works Director may direct the Grantee, at the Grantee's expense, to take actions to resolve the condition or remove the endangerment. Such directive shall be in writing and may include compliance within a prescribed time period.

12.2 In the event the Grantee fails or refuses to promptly take the directed action, or fails to fully comply with such direction, or if emergency conditions exist which require immediate action to prevent imminent injury or damages to

persons or property, the City may take such actions as it believes are necessary to protect persons or property and the Grantee shall be responsible to reimburse the City for its costs.

**Section 12.13. Safety.**

13.1 The Grantee, in accordance with applicable federal, state, and local safety rules and regulations shall, at all times, employ ordinary care in the installation, maintenance, and repair utilizing methods and devices commonly accepted in their industry of operation to prevent failures and accidents that are likely to cause damage, injury, or nuisance to persons or property.

13.2 All of Grantee's facilities in the right-of-way shall be constructed and maintained in a safe and operational condition.

13.3 The City reserves the right to ensure that the Grantee's facilities are constructed and maintained in a safe condition. If a violation of the National Electrical Safety Code or other applicable regulation is found to exist, the City will notify the Grantee in writing of said violation and establish a reasonable time for the Grantee to take the necessary action to correct the violation. If the correction is not made within the established time frame, the City, or its authorized agent, may make the correction. The Grantee is responsible for all the costs and expenses incurred by the City in correcting the violation.

**Section 13.14. Tree Trimming.** Upon approval of the City and in accordance with City ordinances, the Grantee shall have the authority to trim trees and other plant life upon and overhanging the right-of-way to prevent interference with the Grantee's facilities. The Grantee shall provide at least seven (7) days written notice to the owner of the property on which any tree or plant life Grantee desires to trim is located. Said notice may be in the form of a doorknob hanger and shall contain a contact name, address, and telephone number where the property owner can obtain information from the Grantee regarding its tree trimming plans and express concerns regarding the trimming of the trees or plant life on their property. The Grantee shall make a good faith effort to conform with property owners' requests regarding trimming trees or plant life on their property. The Grantee shall be responsible for debris removal from any trimming activities. If such debris is not removed within twenty-four (24) hours, the City may, at its sole discretion, remove such debris and charge the Grantee for the cost of removal and disposal.

**Section 15. ~~Section 14. Franchise Fee - City's Reservation of~~**  
**Rights. Franchise Fee or Utility Tax.** Metricom understands and agrees that its operations within the City are limited to those of a wireless data communications system. ~~Metricom further acknowledges and agrees that these operations do not~~ may come within the definition of a telephone business or service provider referenced in RCW 35.21.860, but that anticipated changes to Metricom's operations and/or business structure may remove

the included in RCW 82.04.065, and that currently no statutory prohibition on the imposition of a franchise fee by the City exists. The amount of the franchise fee imposed under this paragraph shall be as stated below and in no event greater than that charged to Cable Television or other Data Communications providers included in that section. In order to hold the City harmless from business decisions that do not alter Metricom's use of the right-of-way, Metricom agrees to the following:

15.1 ~~14.1~~—Metricom shall be solely responsible for the payment of all lawful Fees~~fees~~ and utility charges in connection with the exercise of Metricom's right, title, and interest in, and the attachment, installation, operation, and maintenance of, its Radios and the rendering of Services under this Franchise.

15.2 Metricom shall comply with City regulations regarding the assessment of a utility tax.

15.3 ~~14.2~~—As compensation for this Franchise, If Metricom alters its business form such that it is no longer subject to the City's utility tax regulations, then Metricom shall pay to the City, on an annual basis, an amount equal to four percent (4%) a quarterly basis, a franchise fee equal to six percent (6%) of Metricom's Gross Revenues, which amount will be collected from subscribers of the Services and remitted to City as provided herein.

15.4 The compensation required by this ~~section~~Section shall be due on or before the ~~45th day after the end of each calendar year or fraction thereof~~first day of the first month of each quarter (April, July, October, and January respectively) for the previous quarter and shall be late on the 45th day after that date. Within 45 days after the termination of this Franchise, compensation shall be paid for the period elapsing since the end of the last ~~calendar year~~quarter for which compensation has been paid. Metricom shall furnish to the City with each payment of compensation required by this section a statement, executed by an authorized officer of Metricom or his or her designee, showing the amount of Gross Revenues for the period covered by the payment. If Metricom discovers that it has failed to pay the entire or correct amount of compensation due,~~the City shall be paid by Metricom~~ shall pay the City an adjusted amount within fifteen (15) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be offset against the next payment due from Metricom. Acceptance by the City of any payment due under this section shall not be deemed to be a waiver by the City of any breach of this Franchise occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City.

15.5 ~~14.3~~—Metricom shall keep accurate books of account at its principal office in Los Gatos or such other location of its choosing for the purpose of determining the amounts due to the City under ~~Section 14.2~~this Section. The

City may inspect Metricom's books of account at any time during regular business hours on five (5) days' prior written notice and may audit the books from time to time at City's sole expense, but in each case only to the extent necessary to confirm the accuracy of payments due under ~~Section 14.2~~ this Section. Notwithstanding the foregoing, Metricom shall bear the cost of any audit ordered by the City pursuant to this section if such audit, certified by a nationally-recognized firm of certified public accountants, confirms an error or errors in Metricom's books which has resulted in an underpayment to the City of five percent (5%) or more of the compensation owing to the City under this Franchise. The City may require annually or annual reports from Metricom relating to its operations and revenues within the City. City agrees to hold in confidence any non-public information it learns from Metricom in accordance with applicable law.

~~14.4 Notwithstanding anything to the contrary herein, City agrees that Metricom shall have no obligation to collect from its subscribers or pay to the City the franchise fee provided in Section 14.2 above with respect to calendar years 1996 and 1997, and such obligation shall commence with respect to revenues collected from subscribers during calendar year 1998. This provision is in the nature of an abatement and is intended to permit Metricom to establish its subscriber base during a reasonable initial deployment period. This section shall be subject and subordinate to any state or federal legal mandate which may be applicable to this Franchise requiring that the City impose uniform franchise fees on all similarly situated franchisees operating within the City.~~

**Section 15.16. Authorized Activities.** The Franchise granted herein is solely for the operation of a wireless data communications business. The Grantee is required to obtain a separate franchise for any operations that include activities other than providing data signal carrying capacity.

**Section 16.17. Indemnification.**

17.1 Metricom hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the City, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards or liability to any person, including claims by Metricom's own employees to which Metricom might otherwise be immune under Title 51 RCW, to the extent arising from injury, sickness, or death of any person or damage to property as a result of the negligent acts or omissions of Metricom, its agents, servants, officers or employees in performing activities authorized by this Franchise. Metricom further releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards or liability to any person (including claims by Metricom's own employees, including those claims to which Metricom might otherwise have immunity under Title 51 RCW) arising against the City solely by virtue of the City's ownership or control of the right-of-ways or other public properties, by virtue of Metricom's exercise of the rights granted herein, or by virtue of the City's permitting Metricom's use of the right-of-way or

other public property based upon the inspection or lack of inspection of work performed by Metricom, its agents and servants, officers or employees in connection with work authorized on the City's property or property over which the City has control, pursuant to this Franchise or pursuant to any other permit or approval issued in connection with this Franchise. This covenant of indemnification shall include, but not be limited by this reference, claims against the City arising as a result of the negligent acts or omissions of Metricom, its agents, servants, officers or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work in any right-of-way or other public place in performance of work or services permitted under this Franchise. If final judgment is rendered against the City, its elected officials, employees, agents, and volunteers, or any of them, Metricom shall satisfy the same.

17.2 Inspection or acceptance by the City of any work performed by Metricom at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be compromised prior to the culmination of any litigation or the institution of any litigation.

17.3 In the event Metricom refuses to undertake the defense of any suit or any claim, after the City's request for defense and indemnification has been made pursuant to the indemnification clauses contained herein, and Metricom's refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Metricom, then Metricom shall pay all of the City's costs and expenses for defense of the action, including reasonable attorneys' fees of recovering under this indemnification clause as well as any judgment against the City.

17.4 Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Metricom and the City, its officers, employees and agents, Metricom's liability hereunder shall be only to the extent of Metricom's negligence. It is further specifically and expressly understood that the indemnification provided in Section 16 constitutes Metricom's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

#### **Section 17.18. Insurance.**

18.1 Metricom shall procure and maintain for the duration of the Franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Metricom, its agents or employees. Metricom shall provide



an insurance certificate, together with an endorsement naming the City, its elected officials, employees, agents, and volunteers as additional insureds, to the City for its inspection prior to the commencement of any work or installation of any facilities pursuant to this Franchise, and such insurance shall evidence:

18.1.1 Automobile Liability insurance with limits no less than \$1,000,000 Combined Single Limit per accident for bodily injury and property damage; and

18.1.2 Commercial General Liability insurance policy, written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: contractual liability; products/completed operations; broad form property damage; explosion, collapse and underground (XCU); and employer's liability.

18.2 Any deductibles or self-insured retentions must be declared and approved by the City. Payment of deductible or self-insured retention shall be the sole responsibility of Metricom.

18.3 The insurance obtained by Metricom shall name the City, its elected officials, employees, agents, and volunteers as additional insureds with regard to the activities these persons perform by or on behalf of Metricom. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers, except those general limitations provided in the policy. In addition, the insurance policy shall substantially contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Metricom's insurance shall be primary insurance for the City, its elected officials, employees, agents, and volunteers. Any insurance maintained by the City, its elected officials, employees, agents, and volunteers shall be excess of Metricom's insurance and shall not contribute with it. The insurance policy or policies required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

18.4 Any failure to comply with the reporting provisions of the policies required herein shall not affect coverage provided to the City, its elected officials, employees, agents, and volunteers.

**Section 18.19. Abandonment of Metricom's Facilities.** No section of cable or portion of the facilities laid, installed, or constructed in the right-of-way by Metricom may be abandoned by Metricom without the express written consent of the City. Any plan for abandonment or removal of Metricom's facilities must be first approved by the Public Works Director, and all necessary permits must be obtained prior to such work.

**Section 19.20. Restoration after Construction.**

**19.20.1** Metricom shall, after any abandonment approved under **Section 18.19**, or any installation, construction, relocation, maintenance, or repair of facilities within the franchise area, restore the right-of-way to at least the condition the same was in immediately prior to any such abandonment, installation, construction, relocation, maintenance or repair. Restoration shall include, but not be limited to, landscaping, drainage systems, roadways, pedestrian pathways, and other City infrastructure. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. Metricom agrees to promptly complete all restoration work and to promptly repair any damage caused by such work at its sole cost and expense.

20.2 If it is determined that Metricom has failed to restore the right-of-way in accord with this Section, the City shall provide Metricom with written notice including a description of actions the City believes necessary to restore the right-of-way. If the right-of-way is not restored in accord with the City's notice within thirty (30) days of that notice, the City, or its authorized agent, may restore the right-of-way. Metricom is responsible for all costs and expenses incurred by the City in restoring the right-of-way in accord with this Section. The rights granted to the City under this paragraph shall be in addition to those otherwise provided by this Franchise.

**Section 20.21. Commencement of Construction.** Metricom hereby affirms its intention to install a wireless data communications system capable of servicing the entire franchise area. Initial construction of the facilities contemplated by this Franchise ordinance shall commence no later than December 31, 1996, provided that this Ordinance is passed and finally approved on or before August 31, 1996, and further provided that such time limit shall not apply to delays caused by acts of God, strikes, eminent domain litigation, or other occurrences over which Metricom has no control. Failure to comply with this section shall make this Franchise null and void as of the date specified in this section for the commencement of construction.

**Section 21.22. Bond.** Before undertaking any of the work, installation, improvements, construction, repair, relocation or maintenance authorized by this Franchise, Metricom shall furnish a bond executed by Metricom and a corporate surety authorized to do a surety business in the State of Washington, substantially in the form attached hereto as **Exhibit B** attached hereto for the minimum amount Ten Thousand Dollars (\$10,000) to ensure performance of Metricom's obligations under this Franchise. The bond shall be conditioned so that Metricom shall observe all the covenants, terms, and conditions and faithfully perform all of the obligations of this Franchise.

**Section 22.23. Recourse Against Bonds and Other Security.** So long as the bond is in place, it may be utilized by the City for the following purposes, including, but not limited to, reimbursement of the City by reason of Metricom's failure to pay the City for

actual costs and expenses incurred by the City to make emergency corrections under Section 4.12 of this Ordinance or to correct franchise violations not corrected by Metricom after notice, and monetary remedies or damages assessed against Metricom due to default or violations of the requirements of City ordinances:

23.1 In the event Metricom has been declared to be in default by the City and if Metricom fails, within thirty (30) days of mailing of the City's default notice, to pay the City any penalties, or monetary amounts, or fails to perform any of the conditions of this Franchise, the City may thereafter obtain from the performance bond an amount sufficient to compensate the City for damages. Upon such withdrawal from the bond, the City shall notify Metricom in writing, by First Class Mail, postage prepaid, of the amount withdrawn and date thereof.

23.2 Thirty (30) days after the City's mailing of notice of the bond forfeiture or withdrawal authorized herein, Metricom shall deposit such further bond, cash, or other security, as the City may require, which is sufficient to meet the requirements of this Ordinance.

23.3 The rights reserved to the City with respect to any bond are in addition to all other rights of the City whether reserved by this Ordinance or authorized by law, and no action, proceeding, or exercise of a right with respect to any bond shall constitute an election or waiver of any rights or other remedies the City may have.

**Section 23.24. Modification.** The City and Metricom hereby reserve the right to alter, amend or modify the terms and conditions of the Franchise upon written agreement of both parties to such amendment.

**Section 24.25. Remedies to Enforce Compliance.** In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel Metricom to comply with the terms of this Franchise, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a breach or revocation of the Franchise.

**Section 25.26. City Ordinances and Regulations.** Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any reasonable ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control, by appropriate regulations, the location, elevation, and manner of construction and maintenance of any fiber optic cable or other facilities by Metricom. Metricom shall promptly conform with all such regulations, unless compliance would cause Metricom to violate other requirements of law.

**Section 26.27. Cost of Publication.** The cost of the publication of this Ordinance shall be borne by Metricom.

**Section 27.28. Acceptance/Liaison.** After the passage and approval of this Ordinance and within thirty (30) days after such approval, this Franchise shall be accepted by Metricom by its filing with the City Clerk a signed copy of this Ordinance. Metricom hereby designates the person named in ~~Section 33~~ Section 34 below as its official liaison that will act as the City's contact for all issues regarding this Franchise. Metricom shall notify the City of any change in the identity of its liaison. Failure of Metricom to so accept this Franchise within said period of time shall be deemed a rejection thereof by Metricom, and the rights and privileges herein granted shall, after the expiration of the thirty (30) day period, absolutely cease and determine, unless the time period is extended by ordinance duly passed for that purpose.

**Section 28.29. Survival.** All of the provisions, conditions and requirements of Sections 4, Relocation of Telecommunications System Facilities; ~~44.12, Dangerous Conditions~~; ~~46.17, Indemnification~~; ~~48.19, Abandonment of Metricom's Facilities~~; and ~~49.20, Restoration After Construction~~, of this Franchise shall be in addition to any and all other obligations and liabilities Metricom may have to the City at common law, by statute, or by contract, and shall survive the City's Franchise to Metricom for the use of the areas mentioned in Section 2 herein, and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this Franchise Ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of Metricom and all privileges, as well as all obligations and liabilities of Metricom shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever Metricom is named herein.

**Section 29.30. Most Favored Community.** In the event that the Grantee enters into any agreement, franchise or other understanding with another city, town, or county in the State of Washington which provides terms or conditions substantially more favorable to the city, town, or county than those provided in this Franchise, such as, but not limited to, free or reduced fee hookups, access or service, the City of Shoreline shall be entitled to request at the City's option, and the Grantee shall be required to execute, an amendment to this Franchise that incorporates such substantially more favorable terms and conditions.

**Section 30.31. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Franchise Ordinance. In the event that any of the provisions of this Franchise are held to be invalid by a court of competent jurisdiction, the City reserves the right to reconsider the grant of this Franchise and may amend, repeal, add, replace or modify any other provision of this Franchise, or may terminate this Franchise.

**Section 31.32. WUTC Tariff Filings, Notice Thereof.** If the Grantee intends to file, pursuant to Chapter 80.28 RCW, with the Washington Utilities and Transportation

Commission (WUTC), or its successor, any tariff affecting the City's rights arising under this Franchise the Grantee shall provide the City with fourteen (14) days prior written notice.

**Section 32.33. Assignment.** This Franchise shall not be sold, transferred, assigned, or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, without the written approval of the City. The City's approval shall not be unreasonably withheld or delayed, but may be conditioned on the acceptance on the part of the franchisee of modifications to this agreement reasonably calculated to address the City's concerns regarding the change in ownership, provided that no such requested modification shall materially increase the obligations of the Grantee hereunder. The City's approval shall be conditioned on the new entity's agreement to accept and affirm all the terms of this Franchise upon the transfer. Any costs associated with the City's review of any transfer proposed by the Grantee shall be reimbursed to the City by the new prospective franchisee, if the City approves the transfer, or by the Grantee if said transfer is not approved by the City.

33.1 An assignment of this Franchise shall be deemed to occur if there is an actual change in control or where ownership of fifty percent (50%) or more of the beneficial interests, singly or collectively, are obtained by other parties. The word "control" as used herein is not limited to majority stock ownership only, but includes actual working control in whatever manner exercised.

33.2 Except as otherwise provided herein, the Grantee shall promptly notify the City prior to any proposed change in, or transfer of, or acquisition by any other party of control of the Grantee's company. Every change, transfer, or acquisition of control of the Grantee's company shall cause a review of the proposed transfer. In the event that the City denies its consent and such change, transfer or acquisition of control has been effected, the City may cancel the Franchise. Approval shall not be required (a) for mortgaging purposes; (b) if said transfer or assignment is from the Grantee to any affiliate or subsidiary or another person or entity controlling, controlled by, or otherwise under common control with the Grantee; or (c) if Grantee transfers all or substantially all of its assets to an entity which intends to continue the operation of its Ricochet™ system and whose financial strength after the transfer is at least equal to that of the Grantee prior to the transfer.

**Section 33.34. Notice.** Any notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

**METRICOM, INC.**

Attention: Property Manager  
980 University Avenue  
Los Gatos, CA 95030

Office: (408) 399-8344  
Fax: (408) 354-9537

**CITY OF SHORELINE**

Attn: Director of Public Works  
17544 Midvale Ave. NE  
Shoreline, WA 98133

Office: (206) 546-1700  
Fax: (206) 546-2200

**Section 34.35. Alternate Dispute Resolution.** If the parties are unable to resolve disputes arising from the terms of this Franchise, prior to resorting to a court of competent jurisdiction, the parties shall submit the dispute to an alternate dispute resolution process agreed to by the parties. Unless otherwise agreed between the parties or determined herein, the cost of that process shall be shared equally.

**Section 35.36. Entire Agreement.** This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

**Section 36.37. Effective Date.** This ordinance shall take effect and be in full force five (5) days after the date of publication and upon acceptance by the Grantee. The City Clerk is hereby directed to publish this ordinance in full.

**PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2000**

**ATTEST:**

\_\_\_\_\_  
Mayor Scott Jepsen

\_\_\_\_\_  
Sharon Mattioli, CMC  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ian Sievers  
City Attorney

Date of Publication:  
Effective Date:

## **Attachment B:**

### **Shoreline Municipal Code**

#### **12.25.090 Franchise and right-of-way use agreement fee.**

A. All franchises or right-of-way use agreements executed by the city shall include terms requiring a grantee to pay a fee in consideration of the privilege granted under a franchise or right-of-way use agreement to use the public right-of-way and the privilege to construct and/or operate in the city. Said franchise fee shall provide the city with compensation equal to six percent of the gross revenues generated by the grantee within the city unless limited by state or federal law; provided, however, that this fee may be offset by any utility tax paid by grantee or in-kind facilities or services provided to the city. Any grantee that does not provide revenue-generating services within the city shall provide alternate compensation as set out in the franchise or right-of-way use agreement.

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** A Public Hearing and Action on a Revised Application for Open Space Tax Assessment under the King County Public Benefit Rating System (Pym Property Between 20<sup>th</sup> Ave. NW and 17<sup>th</sup> Ave. NW)  
**DEPARTMENT:** Planning and Development Services  
**PRESENTED BY:** Tim Stewart, Director  
Gabe Snedeker, Planner II

**EXECUTIVE / COUNCIL SUMMARY**

The City has received a revised application from Linda Jo Pym, a City resident and property owner, for current use tax assessment of 2.82 acres in Shoreline under the King County Public Benefit Rating System (PBRs). Your Council approved a previous PBRs application for this site on June 22, 1998. A public hearing and Council action on this matter is necessary at this time because the applicant has requested a revised PBRs rating based on the recording of a conservation easement on July 29, 1998. The conservation easement on the Pym property is a permanent legal instrument separate from the PBRs program and prevents any future development on the subject property.

Under the terms of the previous PBRs approval, a 60% reduction was applied to the assessed value of the undeveloped land. The owner subsequently decreased her tax burden further by reducing the base assessed value to which the 60% reduction for this property is applied by directly contacting the Assessor's Office regarding the easement and its impact on the developability of her property. With the recording of the permanent conservation easement, the property is now eligible for a 90% reduction in the current assessed value of the land enrolled in the PBRs. This proposal amounts to a \$370.44 per year reduction in the tax on this property in exchange for the preservation of this important natural open space adjacent to a public park. If approved, based on current property values and tax rates, Shoreline would lose approximately \$38.53 annually in tax revenue.

The property covered by this application contains mature second growth trees and other native vegetation. It is located between 20<sup>th</sup> Ave. NW and 17<sup>th</sup> Ave. NW and adjoins the northeast corner of Richmond Beach Park (see Attachment A). The PBRs is a voluntary incentive program that provides a tax reduction for open space resources on private property in both incorporated and unincorporated King County. This program reduces the taxable value of the land 50% to 90% for the area participating, depending on the open space values of the property as determined through the rating process. Because the Pym property is located in Shoreline, the application must be approved by both the Shoreline City Council and King County Council following a public hearing.



## **RECOMMENDATION**

Staff recommends that Council approve the revised Pym PBRS application as submitted and execute the attached Decision of Granting Authority (Attachment D), subject to the conditions and restrictions enumerated in King County's Report to the City of Shoreline, dated April 26, 2000 (Attachment C). A recommendation indicating your Council's decision will be forwarded to the Metropolitan King County Council, who will make the final decision on the proposal.

Approved By:

City Manager

B

City Attorney



## **BACKGROUND / ANALYSIS**

The application includes the entire area of parcel #9321 and small portion of parcel #9053, both owned by Ms. Pym (see Attachment B). Parcel #9321 is 2.62 acres of undeveloped land adjacent to the northeast corner of Richmond Beach Park and contains second growth conifer trees and other native vegetation. Parcel #9053 adjoins 40 feet of the northern boundary of the larger parcel and contains a single family home and other improvements. The small portion (.20 acre) of parcel #9053 which is proposed for inclusion in the PBRs contains native vegetation. The portion of parcel #9053 which contains a single-family home and other improvements is not included in the proposal. Parcel #9053 will not be subdivided under this proposal; the open space designation and tax break will only apply to the portion of this property that is undeveloped.

The applicant provides approximately 2.82 acres of open space land. The trail on the property is available for unlimited public access. This trail has been used by the public for approximately 50 years, according to the applicant. The City's Parks, Recreation, and Cultural Services Department and Planning and Development Services Department feel that this property is an important open space resource because it is a relatively large, undeveloped area with native vegetation adjacent to a popular City park. The trail provides access to the Park via 20<sup>th</sup> Ave. NW for residents of the immediate area.

During the previous public hearing on June 22, 1998, Amely Wurmbrand, the neighbor at 1574 NW 190<sup>th</sup> Street, stated that she supported the proposed open space designation with the following conditions: "a) the delineation of property boundaries with clearly visible markers; b) the installation of a buffer, blocking access between the Pym property and Ms. Wurmbrand's property; and c) the City's acknowledgment that a connection of the current path across the proposed open space with Richmond Beach Saltwater Park Bluff Trail is not viable".<sup>1</sup> Although two other neighbors spoke at the public hearing in favor of the proposed open space, no other public comments were made requesting property signs or markers delineating the boundaries of the open space. When your Council voted to approve the PBRs proposal for this property in 1998, the approval included a condition that approval be "contingent upon installation of the signage requested during the public hearing".<sup>2</sup>

Ms. Pym has installed signage delineating the boundary of the property with the adjacent property owned by Amely Wurmbrand (1574 NW 190<sup>th</sup> Street) and the property owned by Rick Speed (19020 20<sup>th</sup> Avenue NW) that is surrounded by the open space on three sides. In addition, Ms. Pym has installed a large marker at the trailhead near the intersection of 17<sup>th</sup> Avenue NW and NW 191<sup>st</sup> Street and has stated that she will install a similar sign where the trail enters the western boundary of Parcel #9321 (see Attachment B). Given the context and apparent intent of the approval condition, staff feels that Ms. Pym has substantially complied with the approval condition.

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<sup>1</sup> Shoreline City Council, Summary Minutes of Regular Meeting, June 22, 1998 (approved July 13, 1998).

<sup>2</sup> Ibid

## **Process**

The King County Department of Natural Resources reviews PBRS applications and forwards a recommendation to the city in which the property is located. In the case of the City of Shoreline, City staff reviews the proposal and after considering King County's recommendation, forwards a recommendation to the City Council. The City Council reviews the recommendation, makes a decision, and forwards a recommendation to the County Council. The King County Council has final approval powers. Approval of this proposal has no impact on any agreement that the property owner, a future owner, or an outside party may make with the City for future purchase or use of the property.

Under PBRS, the owner temporarily agrees to not develop the property in exchange for a property tax reduction. The owner may also agree to other restrictions or conditions, such as public access. There is only one other property in Shoreline which is currently in the PBRS program: the historic Boeing Estate at 16035 Huckleberry Lane in The Highlands. There is also one property in Shoreline which is in a similar current use assessment program for agricultural properties: the Kruckeberg Family Trust property at 20312 15<sup>th</sup> Ave. NW.

## **Rating System**

To be eligible for open space classification under the Public Benefit Rating System, property must contain one or more priority open space resources. These resources are ranked as high priority, medium priority, and low priority based on criteria established in the King County Open Space Plan. High priority resources receive five points each, medium priority resources receive three points each, and low priority resources receive one point each. Urban area open space, salmon habitat, and designated historic landmarks are examples of high priority resources. Medium priority resources include such things as geologic features and sites eligible for historic landmark designation. A buffer area adjacent to an eligible historic landmark would be an example of a low priority resource.

Properties can receive a maximum of thirty points from no more than six open space priority resources. In addition, bonus points are awarded for such things as resource restoration and super bonus points are awarded for public access. Theoretically, a property could achieve a maximum of fifty-two points through the rating system and bonus system. A property must score at least five points to be eligible for the minimum 50% tax break allowed under the program, this proposal scores 15 points. A summary of the PBRS rating for this applicant is found later in this report.

Under the requirements of the PBRS program, the open space classification for this land will continue so long as it is primarily devoted to and used for the purpose of protecting open space. Classification will be removed and the tax break will be discontinued if dedication to this use ceases to exist. Exact terms and restrictions are detailed in King County's Revised Preliminary Report to the City of Shoreline dated April 26, 2000.

## Proposal Cost

Because of past decisions that have reduced the taxes generated by this property, if the current tax levy rate and property values are held constant, Shoreline would only lose approximately \$38.53 per year in additional property tax revenue if the proposal before your Council is approved. Ms. Pym received a 60% reduction in the assessed value of her land following the approval of the original application in 1998. Ms. Pym's tax burden was further reduced through a successful appeal directly to the King County assessor based on the recording of the conservation easement. If the current PBRs application is approved, Ms. Pym would receive a 90% reduction in the adjusted assessed value of her property. The financial implications of a 90% reduction in assessed value are displayed below. Please note, Ms. Pym is already approved at the 60% level and based on the successful appeal of her assessment, Ms. Pym would continue to enjoy a sizable reduction in her property taxes whether or not the application is approved.

**Table 1**

Parcel #	Assessed Property Value	Total Tax Per Year	Percent of Parcel Designated	PBRs Tax Break	Adjusted Tax Per Year	Total Annual Tax Revenue Change Based on Current Values and Rates	Shoreline Annual Tax Revenue Change Based on Current Values and Rates
9321	\$21,000 <sup>3</sup> (Reflects Easement)	\$312.53	100%	90%	\$36.68	\$275.85	\$28.69
9053	\$327,000	\$4,863.60	22%	90%	\$4,164.84	\$698.76	\$72.67

Annual Fiscal Impact of 90% PBRs Reduction: \$101.36  
Annual Fiscal Impact of Previously Approved 60% PBRs Reduction: \$62.83  
**Annual Fiscal Impact to Shoreline of this Proposal: \$38.53<sup>4</sup>**

## Requirements

When land is classified as open space it must remain in this use for a period of not less than ten years, or an early withdrawal penalty shall apply. Motorized recreation is not allowed in designated open space. Any development or alteration of the land, excluding such things as non-motorized recreation, removal of non-native species, or hazard tree removal, is prohibited.

If the owner intends to withdraw all or a portion of the land from classification after ten years, two years prior notice must be given to the county assessor. This notice may be filed in the eighth year of the initial ten-year period. Land which is withdrawn from classification is subject to an additional tax equal to the difference between the amount

<sup>3</sup> This undeveloped parcel was assessed at \$368,000 in 1997, prior to the recording of the conservation easement and Ms. Pym's appeal to the KC Assessor.

<sup>4</sup> Theoretical fiscal impact: assumes property tax levy rate and assessed values for Shoreline are held constant.

of tax paid under the current use assessment and the tax at true and fair value for the last seven years, plus interest at the rate charged on delinquent property taxes. If land is withdrawn from the program before the ten year period, the early withdrawn penalty amounts to the difference between the amount of tax paid under the current use assessment and the tax at true and fair value for the period of time the property was enrolled in the program, plus interest at the rate charged on delinquent property taxes, plus an additional penalty amounting to 20% of the total previously mentioned charges. Penalties returned to the county are shared with all eligible taxing districts.

### **King County Recommendations and Rating**

We have received a report from the King County Department of Natural Resources Water and Land Resources Division regarding the Pym application. King County's report includes the following information and recommendations:

**Table 2**

Parcel Number	Parcel Address	Total Acreage	Requested Open Space Acreage	Recommended Open Space Acreage
9053	19012 20 <sup>th</sup> Ave. NW	.89	.197	.197
9321	(adjoining)	2.62	2.62	2.62

Total Area Recommended for Open Space = **2.82 acres**

PBRS Categories requested by the applicant and King County's comments are as follows:

#### **Category: High Priority Resources**

1. Active or passive recreation area: The general public has used a foot trail located on the property for more than 50 years. This trail would provide access between 17<sup>th</sup> Ave. NW and Shoreline's Richmond Beach Park via 20<sup>th</sup> Ave. NW. The City of Shoreline and the Utilities and Natural Resources Committee of the County Council awarded credit for this category in 1998 (5 points).
2. Urban or growth area open space: The applicant is providing approximately 2.82 acres of open space land within an incorporated area. The City of Shoreline and the Utilities and Natural Resources Committee of the County Council awarded credit for this category in 1998 (5 points).

#### **Category: Public Access**

1. Unlimited access: The applicant is willing to allow unlimited public access to the foot trail located on the property. The trail provides access between 17<sup>th</sup> Ave. NW and King County Richmond Beach Park via 20<sup>th</sup> Ave. NW. The City of Shoreline and the Utilities and Natural Resources

Committee of the County Council awarded credit for this category in 1998. (5 points).

**Category: Bonus Resource**

1. Conservation Easement: The applicant is presently working with The Land Trust, a recognized non-profit conservancy organization, on the execution of a conservation easement. The potential recording date of this easement should be before the end of summer 2000. Credit for this category is recommended pursuant to a conservation easement being recorded for this property prior to December 31, 2000. Note: based on conversations with King County staff, this conservation easement was recorded on July 29, 1998 (Rec. #98-07-29-06-94). King County recommends credit for this category.

**Category: Super Bonus**

Properties with at least one high priority resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey a conservation, historic, or trail easement in perpetuity, in a form approved by the county, shall be automatically eligible for current use value at 10% of market value (90% reduction). The property is presently receiving credit for the active or passive recreation category and for unlimited access. Credit for the conservation easement category is recommended. Credit for this category is recommended by King County.

The City of Shoreline concurs with the recommendations contained in the Report to the City of Shoreline, April 26, 2000. For a complete description of King County's recommendations, see Attachment C.

**Policy Basis for Decision**

This proposal is consistent with the Shoreline Comprehensive Plan:

**Policy #PR-4**

"Look for opportunities to preserve and protect current open space."

**Policy #EN-9**

"Develop, actively participate in, and help publicize, local and regional programs to conserve open space and protect environmentally sensitive areas, including... King County's Public Benefit Rating System."

## **RECOMMENDATION**

Staff recommends that Council approve the revised Pym PBRs application as submitted and execute the attached Decision of Granting Authority (Attachment D), subject to the conditions and restrictions enumerated in King County's Report to the City of Shoreline, dated April 26, 1998 (Attachment C). A recommendation indicating your Council's decision will be forwarded to the Metropolitan King County Council, who will make the final decision on the proposal.

## **ATTACHMENTS**

Attachment A: Vicinity Map of Pym PBRs Open Space Proposal

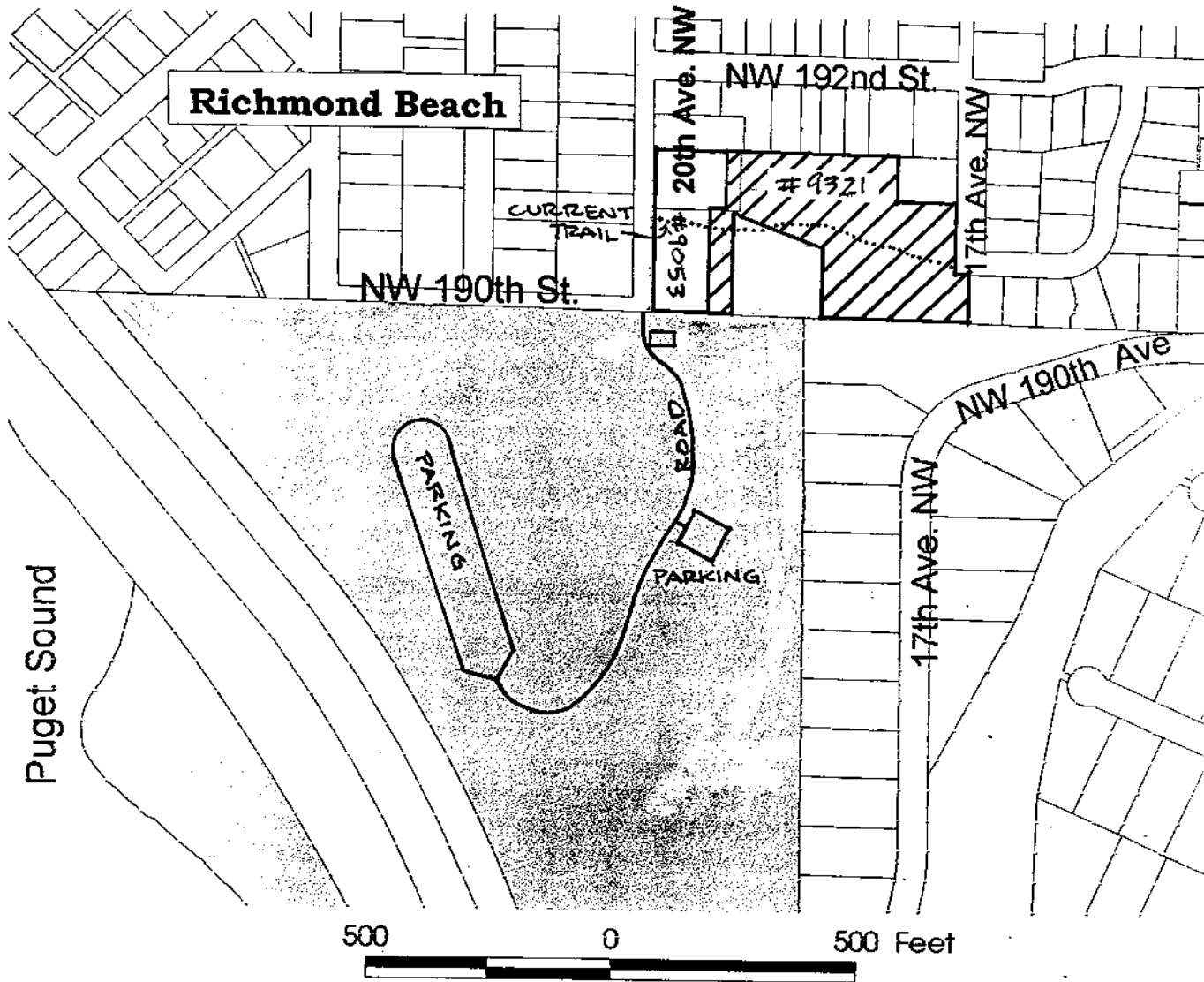
Attachment B: Parcel Map of Pym PBRs Open Space Proposal and Public Trail

Attachment C: Report to the City of Shoreline and The Metropolitan King County Council Natural Resources, Parks and Open Space Committee. April 26, 2000. King County Department of Natural Resources, Water and Land Resources Division



Attachment D: Decision of Granting Authority

# Vicinity Map

## Pym Open Space Proposal



### Legend

-  Pym Property
-  Richmond Beach Park
-  Parcels
-  PYM OPEN SPACE

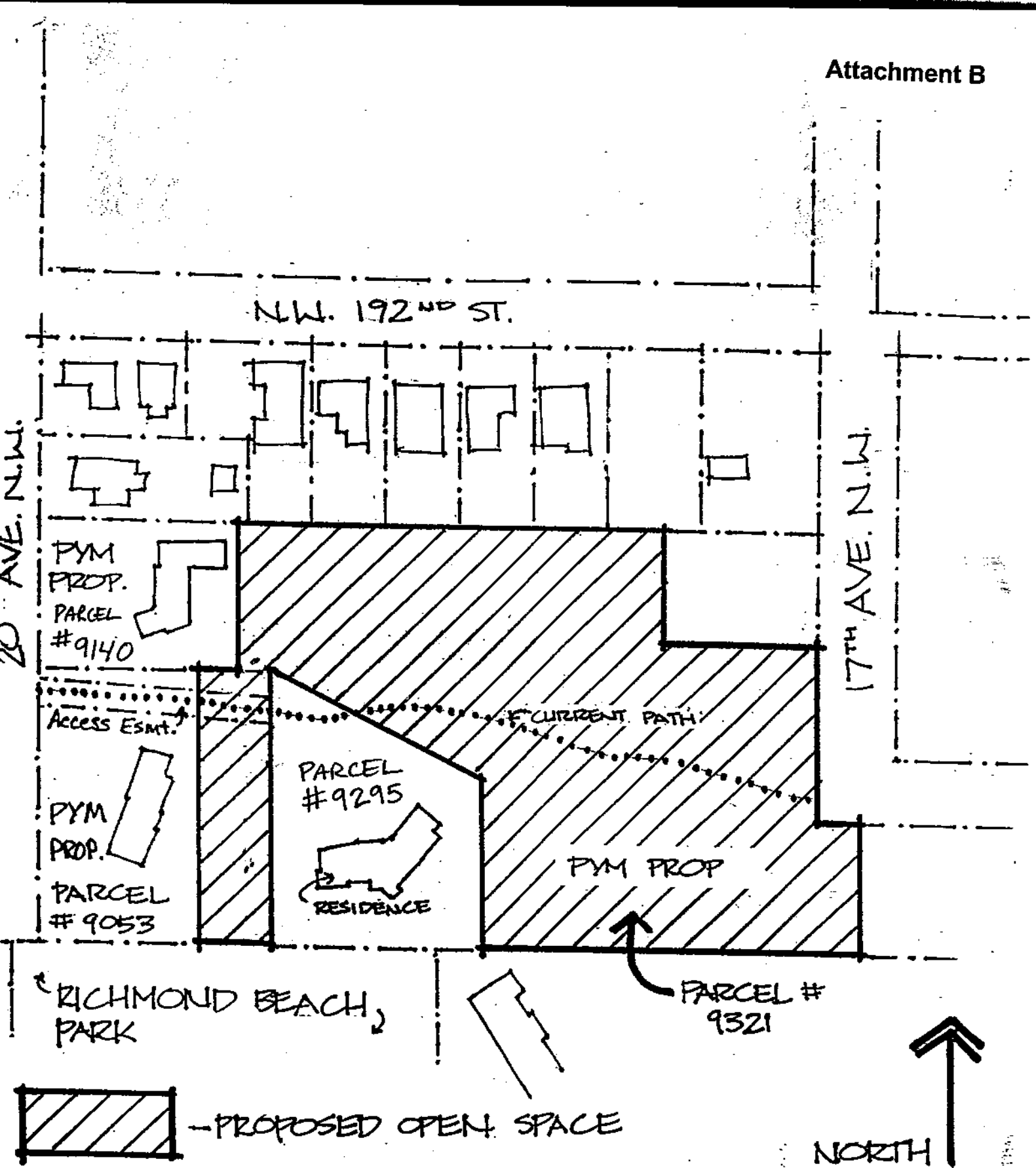
Prepared by the City of Shoreline  
Department of Planning and Development  
Services. Cadastral GIS data copyrighted by  
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No warranties of any sort, including accuracy,  
fitness, or merchantability, accompany this product.



Planning and Community  
Development



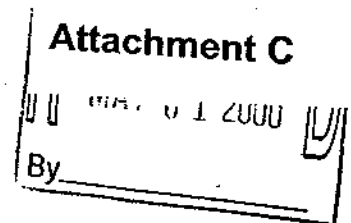






KING COUNTY  
Department of Natural Resources

Water and Land Resources Division  
201 South Jackson Street, Suite 600  
Seattle, WA 98104-3855  
Phone: (206) 296-6519  
Fax: (206) 296-0192



April 27, 2000

Gabe Snedeker  
Planning and Development Services Department  
City of Shoreline  
17544 Midvale Avenue North  
Shoreline, WA 98133

RE: Report to the City of Shoreline and the Metropolitan King County Council Parks, Natural Resources and Open Spaces Committee, File # E99CT007SH

Dear Mr. Snedeker:

Enclosed please find a copy of the Public Benefit Rating System staff report to the City of Shoreline and the Metropolitan King County Council Natural Resources, Parks and Open Spaces Committee. Please review the enclosed report for any questions, errors or omissions.

A public hearing before the King County Utilities and Natural Resources Committee has been tentatively scheduled for **Thursday June 22, 2000**. I will contact you once a time for this hearing has been scheduled. The hearing will probably be held on in the King County Courthouse, 516 Third Avenue, Seattle.

Thank you for your assistance with this year's PBRS approval process. Please let me know when and where the City of Shoreline will hold its public hearing for this application. If you have questions or concerns please feel free to call me at (206) 205-5170.

Sincerely,

Ted Sullivan  
PBRS Program Coordinator

Enclosures

**KING COUNTY DEPARTMENT OF NATURAL RESOURCES  
WATER AND LAND RESOURCES DIVISION**

**REPORT TO THE CITY OF SHORELINE  
AND  
THE METROPOLITAN KING COUNTY COUNCIL  
NATURAL RESOURCES, PARKS AND OPEN SPACES COMMITTEE**

**April 26, 2000**

**APPLICANT: Linda Jo Pym**

**FILE NO: E99CT007SH**

**A. GENERAL INFORMATION:**

Owner: Linda Jo Pym  
19012 - 20<sup>th</sup> Avenue NW  
Shoreline, WA 98177

Location: Same as above

**Priority Resources Requested:**

**HIGH PRIORITY RESOURCES**

Active or passive recreation area\*  
Urban or growth area open space\*

**BONUS RESOURCE**

Conservation easement

**PUBLIC ACCESS**

Unlimited access\*

**SUPER BONUS CATEGORY**

Please Note: \*The property is presently participating in the PBRs program and is receiving credit for these categories. This application is requesting credit for the conservation easement category and the Super Bonus Category.

Zoning: R6 (Single Family, 6 du/acre)

Acreage per parcel	022603-9053	022603-9321
Total:	0.89	2.62
Requested for Open Space:	0.197	2.62
Recommended Open Space:	0.197	2.62

Please Note: Total property size is 3.51 acres. Requested and recommended area is 2.817 acres.

STR: NE-SE-02-26-03

## B. FACTS:

1. Zoning in the Vicinity: Zoning in the area of this property is R6.
2. Development of the subject property: The property contains a single family home with attached garage, driveway, landscaping and shed. Parcel #9321 is undeveloped.
3. Site Use: The property is used as a single family residence.
4. Access: The property is accessed from SE 56<sup>th</sup> Street.
5. Assessor Valuation (Dated: 04/25/00):

<u>Parcel #</u>	<u>Land Assessed Value</u>	<u>Tax</u>
022603-9053	\$ 242,172*	\$ 3708.40*
022603-9321	\$ 8,400*	\$ 128.63*

Please note: \*Values reflect property's participation in PBRs. If the property was not participating in this current use assessment program the market value for parcel #9053 would be \$279,000 and for parcel #9321 it would be \$21,000.

## C. REQUIREMENTS SPECIFIED BY KING COUNTY CODE (KCC):

### 1. KCC 20.36.010 Purpose and intent.

"It is the in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.

It is the intent of this chapter to implement RCW 84.34, as amended, by establishing procedures, rules and fees for the consideration of applications for public benefit rating system assessment on "open space lands" and for current use assessment on "farm and agricultural land" and "timber land" as those lands are defined in RCW

E99CT007SH

84.34.020. the provisions of Chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered by this chapter. (Ord. 10511 Sec. 3, 1992: Ord. 1886 Sec. 1, 1974: Ord. 1076 Sec. 1, 1971.)"

COMMENT: The appropriate application was received and all documentation was complete upon submittal.

**2. KCC 20.36.100 Criteria for approval - public benefit rating system for open space lands.**

A. Rating system. To be eligible for open space classification under the public benefit rating system, property must contain one or more priority open space resources. These resources are ranked as high priority, medium priority and low priority resources and are based on the adopted King County Open Space Plan referenced in K.C.C. 20.12.380. High priority resources receive five points each, medium priority resources receive three points each and low priority resources receive one point each. Properties can receive a maximum of thirty points from no more than six open space priority resources. In addition, bonus points and super bonus points may be awarded pursuant to Subsection B and C and a property can achieve a maximum of fifty-two points through the rating system and the bonus system. Portions of property may also qualify for open space designation. Complete definitions of each resource, sources and eligibility standards are fully described in the summary report adopted by reference by K.C.C. 20.36.150.

**1. High priority resources - five points each.**

- a. Active or passive recreation area.
- b. Property under option for purchase as park, recreation, open space land or CIP mitigation site.
- c. Aquifer protection area.
- d. Shoreline: "Conservancy" environment.
- e. Scenic resource, viewpoint, or view corridor.
- f. Surface water quality buffer area.
- g. Open space close to urban growth area.
- h. Urban or growth area open space.
- i. Significant plant, wildlife or salmonid habitat area.
- j. Significant aquatic ecosystem.
- k. Historic landmark/archaeological site: designated site.
- l. Trail linkage.
- m. Farm and agricultural conservation land.
- n. Forest stewardship land.

**2. Medium priority resources - three points each.**

- a. Public lands or right-of-way buffer.
- b. Special native plant site.

E99CT007SH

- c. Shoreline: "Natural" environment.
  - d. Geological feature.
  - e. Eligible historic landmark or archaeological site.
  - f. Buffer to designated historic landmark/archaeological site.
  - g. Special animal site.
3. Low priority resource - one point.
- a. Buffer to eligible historic landmark/archaeological site.
- B. Bonus System. Properties qualifying in the specific high, medium or low priority categories may receive up to twelve bonus points in at least three categories if the following additional qualifications are met:
- 1. Resource restoration - five points.
  - 2. Bonus surface water quality buffer - three or five points.
  - 3. Contiguous parcels under separate ownership - two points.
  - 4. Conservation/historic easement in perpetuity - five points.
  - 5. Bonus public access points (granted only in categories that require public access).
    - a. Unlimited public access - five points.
    - b. Limited public access - sensitive areas - five points.
    - c. Limited public access - non-sensitive areas - three points.
- C. Super bonus system. Properties with at least one high priority resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey a conservation, historic, or trail easement in perpetuity, in a form approved by the county, shall be automatically eligible for current use value at 10% of market value.

COMMENT: Points requested by the applicants and comments follow:

#### **HIGH PRIORITY RESOURCES**

- 1. Active or passive recreation area  
The general public uses a foot trail located on the property, parcel #9321. This trail has been used for more than fifty years and provides access between 17<sup>th</sup> Avenue NW and King County Richmond Beach Park. The City of Shoreline and the Utilities and Natural Resources Committee of County Council awarded credit for this category in 1998.
- 2. Urban or growth area open space  
The property is located within the City of Shoreline. The applicant is providing over 2.50 acres of open space land and is permitting unlimited access along a connecting trail between 17<sup>th</sup> Avenue NW and King County Richmond Beach Park. The City of Shoreline and the Utilities and Natural Resources Committee of the County Council awarded credit for this category in 1998.

E99CT007SH

## **BONUS RESOURCE**

### **1. Conservation easement**

The applicant is presently working with The Land Trust, a recognized non-profit conservancy organization, on the execution of a conservation easement. The potential recording date of this easement should be before the end of summer 2000. Credit for this category is recommended pursuant to a conservation easement being recorded for this property prior to December 31, 2000.

## **PUBLIC ACCESS**

### **1. Unlimited access**

The applicant is willing to allow unlimited public access to the foot trail located on the property. The trail provides access between 17<sup>th</sup> Avenue NW and King County Richmond Beach Park. The City of Shoreline and the Utilities and Natural Resources Committee of the County Council awarded credit for this category in 1998.

## **SUPER BONUS CATEGORY**

Properties with at least one high priority resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey a conservation, historic, or trail easement in perpetuity, in a form approved by the county, shall be automatically eligible for current use value at 10% of market value. The property is presently receiving credit for the active or passive recreation category and for unlimited access. Credit for the conservation easement category is recommended. Credit for this category is recommended.

## **D. 1994 COMPREHENSIVE PLAN POLICIES AND TEXT:**

### **Policy # PR-105**

"A variety of measures should be used to preserve regional and local parks, trails and open space. King County will rely on incentives, regulations, trades or purchase of lands or easements."

COMMENT: Current use taxation is an incentive to maintain high quality lands as open space.

### **Policy # NE 101**

"In addition to its regulatory authority, King County should use incentives to protect and restore the natural environment whenever practicable. Incentives should be monitored to determine their effectiveness."

COMMENT: The Public Benefit Rating System is an incentive program that encourages the voluntary protection of natural resources.

E99CT007SH

## CONCLUSIONS AND RECOMMENDATIONS

### A. CONCLUSIONS:

1. Approval of the subject request, as modified, would be consistent with the specific purpose and intent of KCC 20.36.010.
2. Approval of the subject request, as modified, would be consistent with Policies PR-105 and NE-101 of the 1994 King County Comprehensive Plan.
3. Of the points requested, the subject request meets the mandatory criteria of KCC 20.36.100 as indicated:

#### HIGH PRIORITY RESOURCES

- Active or passive recreation area 5
- Urban or growth area open space 5

Subtotal 10

(Count points from no more than six categories...30 points maximum)

#### BONUS RESOURCE

- Conservation easement 5

#### Public Access

- Unlimited access 5

Subtotal 10

#### SUPER BONUS CATEGORY

Automatic 35 point total

#### TOTAL 35 points

#### PUBLIC BENEFIT RATING

35 points result in 10% of market value or a 90% reduction.

### B. RECOMMENDATION:

APPROVE the request, as modified, for current use taxation "Open space" classification with a Public Benefit Rating of 35 points, subject to the following conditions:

#### CONDITIONS

1. Failure of the owner to comply with these conditions shall be basis for removal, by King County, of the current use designation, in which case the land shall be subject to the

E99CT007SH



penalty, tax, and interest provisions of RCW 84.34 and assessed at true and fair value. The County Assessor and the King County Department of Natural Resources, Resource Lands and Open Space Section may re-evaluate the property to determine whether removal of the open space designation is appropriate. Removal shall follow the process in RCW 84.34.108.

2. Revisions to this agreement may only occur upon mutual written approval of the owner, granting authority and the King County Department of Natural Resources, Resource Lands and Open Space Section. These conditions shall apply so long as the property retains its open space designation. Conditions contained in the approved and recorded conservation easement shall automatically supersede conditions contained in this recommendation.
3. The open space classification for this land will continue so long as it is primarily devoted to and used for the purpose of protecting open space. Classification will be removed if dedication to this purpose ceases to exist. A change in circumstances which diminishes the extent of public benefit from that generally outlined in the King County Department of Natural Resources Report to the City of Shoreline and the Metropolitan King County Council Natural Resources, Parks And Open Spaces Committee will be cause for removal of the current use assessment classification. It is the owner's responsibility to notify the Assessor of a change in circumstance.
4. When a portion of the open space land is withdrawn or removed from the program, the King County Department of Natural Resources, Resource Lands and Open Space Section and the Assessor shall re-evaluate the remaining land to determine its continued qualification under the program. If the remaining portion meets the criteria for priority resources, it may continue under current use taxation.
5. Except as otherwise stated in section 6 of this agreement, there shall be no alteration of the open space land or resources. **Any alteration may constitute a change of use and subject the property to the additional tax, interest, and penalty provisions of RCW 84.34.080** "Alteration" means any human-induced action that adversely impacts the existing condition of the open space land or resources including but not limited to the following: *(Walking, horseback riding, passive recreation or actions taken in conjunction with a resource restoration plan, or other similar activities are permitted.)*
  - a) erecting structures;
  - b) grading;
  - c) filling;
  - d) dredging;
  - e) channelizing;
  - f) modifying land or hydrology for surface water management purposes;
  - g) cutting, pruning, limbing or topping, clearing, planting, introducing, relocating or removing vegetation, however, selective cutting may be permitted for firewood;

E99CT007SH

- h) applying herbicides or pesticides or any hazardous or toxic substance;
  - i) discharging pollutants excepting stormwater;
  - j) paving, construction, application of gravel;
  - k) storing of equipment, household supplies, play equipment, or compost;
  - l) engaging in any other activity that adversely impacts the existing vegetation, hydrology, wildlife, wildlife habitat, or other open space resource.
6. Notwithstanding the provisions of Section 5, the following limited uses, activities and alterations are permitted, following receipt of written approval as set forth below:
- a) In areas that have become infested by noxious weeds, the Owner shall submit a control and enhancement plan to the King County Department of Natural Resources, Resource Lands and Open Space Section for approval prior to removing the weeds.
  - b) In areas invaded by non-native invasive species, replacement with native species or other appropriate vegetation may be allowed subject to approval of an enhancement plan by the King County Resource Lands and Open Space Section.
  - c) Trees posing a hazard to structures or major roads may be removed. Any trees removed must be replaced.
7. There shall be no motorized vehicle driving or parking allowed on the open space land with the exception of along driveways.
8. Grazing of livestock shall be prohibited on the open space land.
9. Unlimited access will be permitted upon a designated area of the open space land.

**TRANSMITTED** to the parties listed hereafter:

Linda Jo Pym, applicant  
Gabe Snedeker, City of Shoreline  
Natural Resources, Parks and Open Spaces Committee of the Metropolitan  
King County Council  
Susan Monroe, King County Assessors Office

E99CT007SH

**CURRENT USE ASSESSMENT  
DECISION OF GRANTING AUTHORITY  
PURSUANT TO RCW 84.34.037**

APPLICANT: Linda Jo Pym  
19012 - 20<sup>th</sup> Avenue NW  
Shoreline, WA 98177

KING COUNTY DEPARTMENT OF  
NATURAL RESOURCES FILE NO.: E97CT072SH

CITY: Shoreline

On JUNE \_\_\_\_\_, 2000, the CITY OF SHORELINE COUNCIL, the legislative body of the City of Shoreline, conducted a public hearing and considered the application of Linda Jo Pym for Current Use Assessment. The recommendation of the City of Shoreline is enumerated in the attached report and is hereby forwarded to the Metropolitan King County Council.

**SIGNATURES OF GRANTING AUTHORITY**

City of Shoreline

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date

**CITY COUNCIL AGENDA ITEM**  
**CITY OF SHORELINE, WASHINGTON**

<b>AGENDA TITLE:</b>	Development Code, Phase II: Adoption of Ordinance No. 238
<b>DEPARTMENT:</b>	Planning and Development Services
<b>PRESENTED BY:</b>	Timothy Stewart, Director Anna Kolousek, Assistant Director

**EXECUTIVE / COUNCIL SUMMARY**

On May 22, 2000 your Council held a public hearing on Phase II of the Development Code. The Council asked staff to provide more background on the following issues:

- Bonus floor for mixed-use development.
- Single-family design standards.
- Open space requirement for multi-family development.
- Setbacks between multi-family and single-family developments.
- Fences in the front yard and along a private road.
- Hobby Kennels.

The intent of this agenda item is to provide staff analysis and recommendations on these issues in order to bring closure to the Development Code - Phase II.

1. Tonight your Council is asked to review the staff's background analysis and recommendations on these issues.
2. Adopt Ordinance No. 238. This ordinance implements the Planning Commission's unanimous recommendation (March 23, 2000) to adopt the Development Code, Phase II and repeals outdated provisions of the existing Shoreline Municipal Code.

The Development Code and Engineering Guide, recommended by the Planning Commission, were distributed to your Council with the agenda packet for the May 1 workshop. Additional technical corrections and errata were included in your agenda packet for May 22 and distributed prior to the public hearing. (All errata and technical corrections are included as Attachment A.)

## RECOMMENDATION

Adopt Ordinance No. 238, amending the City of Shoreline Municipal Code by establishing new Title 20, Development Code and repealing outdated provisions of the Shoreline Municipal Code.

(Copies of Attachments for May Staff Reports are available for public review in the City Clerk's Office, Planning and Development Services Department, Richmond Beach and Shoreline Libraries, East and West Police Neighborhood Centers.)

Approved By:

City Manager

LB

City Attorney

[Signature]

## BACKGROUND/ ANALYSIS

On May 22, 2000 your Council held a public hearing on Phase II of the Development Code. The Council asked staff to provide more background on the following issues:

### 1. **Bonus floor for mixed-use development.** (Reference page 165).

Issue: The proposed text on page 165 does not reflect the drawing.

Comprehensive plan recommends mixed-use development for a number of areas. Neighborhood Business (NB) and Office (O) zones are suitable for the mixed-use development. In appropriate instances incentives and flexibility for mixed-use projects are identified as exceptions (listed in Italics) after the applicable standard. Height bonus is an incentive for attracting mixed-use development.

Staff recommends revising the text to complement the desired effect on the drawing:

*Exception B-1.1d: Bonus for mixed use development in NB and O zones: In order to provide flexibility in types of housing and to meet the policies of the comprehensive plan, the base height may be increased for Mixed Use Development to 4 stories or up to 60 feet, if the added story is stepped back from the ~~street wall~~ third story walls at least eight (8) feet, and subject to the following requirement:*

*Residential dwelling units shall occupy a minimum of 25 percent to a maximum of 90 percent of the total floor area; ~~of the building.~~*

### 2. **Single-family design standards.** (Reference pages 142-144.)

Issue: Single-family building design standards "to be or not to be" included in the Code. Planning Commission recommended eliminating the standards located on pages 142-144. In the draft released for public review in January, staff proposed standards for building design, which would be easy to administer and ensure that the street facades would be attractive and not dominated by garage doors. By recessing garages the street would be enclosed with a variety of architectural elements: such as windows, bays, porches, and other entry enhancements. Three amendments (#157, 158 and 159) requested elimination of these standards. The Planning Commission agreed with these amendments.

Staff is neutral on this issue – it is an issue of community value.

### 3. **Open space requirement for multi-family development.** (Reference pages 153-155).

Issue: Did the proposed Code change the existing requirements for the open space?

The proposed draft increased the open space requirements for one-bedroom and studio units by 10 square feet per unit. The requirements for tot/ children play area are the same as specified in the existing code – please refer to p. 155, B-4.2. The allowance for 50% of the storm water run-off tract to be credited to the open space is also translated from the existing code. The slope for the storm drainage is also the same - 33% that

translates to one (1) vertical to three (3) horizontal. Such slope can be easily landscaped for safety purposes. Staff feels that the proposed code wording provides enough flexibility in designing the open space to be suitable for the people who will live in the building.

Staff recommends no change to the proposed language.

**4. Setbacks between multi-family and single-family developments.** (Reference pages 128, 147-148 and 212-218).

Issue: Is the 15-foot setback between multi-family and single-family developments adequate?

The Comprehensive Plan specifies 35 feet as the maximum height for all multi-family developments. The existing code allows for 60-foot tall multi-family buildings in all multi-family zones. Under the current code, a 20-foot wide separation between single-family and multi-family is required. Single-family zones, under the current code, have a height limit of 30 feet. The intent of the 20-foot wide buffer is to make the transition in building height from 60 feet to 30 feet visually (through landscaping) more gradual. The proposed code height corresponds to the Comprehensive Plan designated height limit in multi-family developments of 35 feet. The proposed 15 foot wide separation provides an appropriate and adequate visual transition between the 35 foot multi-family zone and the 30 foot tall single family district, especially when considered with the draft code's Landscaping Standards.

Staff recommends no change to the proposed language.

**5. Fences in the front yard and along a private road.** (Reference pages 145 and 146.)

Issue #1: Fence height limit in the front yard: 3'6".

The front yard is the area between the house and the public sidewalk. It is also a transition between the house and the street – it's a "gateway" to private domain from the public space. The most highly rated fenced enclosures of front yard (by the Planning Academy) include low-picket-type fence, low hedges, or some combination of landscaping elements, which helped to articulate the house entrance. Front yard fences are not intended to provide the same degree of privacy as the rear yard fence.

Issue #2: Appearance of fences along private roads serving lots not fronting on a street.

Fences along access roads to "infill" lots often create a "tunnel" vision, which was rated highly negative by the Academy. The proposed code specifies the minimum standard for softening of the appearance of fence lines.

Staff reviewed the language and concludes that it translates the community vision into an implementable standards. Staff recommends no change to the proposed language.

## **6. Hobby Kennels.**

Issue: Should hobby kennels be included as permitted use into the Code?

In 1993 King County Code a "Hobby Kennels" were permitted in single-family residential zones subject to special Hobby Kennel or Cattery license or private Animal Placement Permit. Hobby Kennels were not permitted by the Code the City adopted during the incorporation. There is no need to include a new use for hobby kennels. The County still issues a license for the hobby kennel breeder. The only difference between the hobby kennel and animals kept as pets is the number – three (3) unaltered in the new Code and four (4) the old code. There were no requests by the public to change the code.

Staff recommends changing to the proposed language to increase the number of unaltered cats or dogs to four. This would allow people with appropriate license to train or breed dogs.

## **RECOMMENDATION**

Adopt Ordinance No. 238, amending the City of Shoreline Municipal Code by establishing new Title 20, Development Code and repealing outdated provisions of the Shoreline Municipal Code.

## **ATTACHMENTS**

Attachment A: Errata and Technical Corrections presented on May 22nd  
Attachment B: Ordinance No. 238

(Copies of Attachments for May Staff Reports are available for public review in the City Clerk's Office, Planning and Development Services Department, Richmond Beach and Shoreline Libraries, East and West Police Neighborhood Centers.)



<b>DEVELOPMENT CODE ERRATA &amp; TECHNICAL CORRECTIONS</b> May 2000		
<b>Errata &amp; Technical Correction #</b>	<b>Code Page</b>	<b>Description</b>
1	14 & 165	Development Agreement, remove definition and reference. (Development Agreement was eliminated during the adoption of Phase I; the definition on page 14 and the Exception B-1.1c on page 165 were not eliminated.)
2	19	Add definition of Grade, Existing. (Clarifies how existing grade is determined for building height measure.)
3	100 & 104	Eliminate Adult Care and Assisted Care Facilities from Table 1 and from the Index of Supplemental Uses. (The Adult Care and Assisted Care Facilities are covered by Community Residential Facility I and II.)
4	100 & 117	Revise B-1.7, add B-1.8 and add supplemental criteria for Unlisted Use. (B-1.7 together with the addition of Unlisted Use in the Index of Supplemental Criteria aids to applying the Use Table. B-1.8 clarifies the issue stated in the CTED comments letter.)
5	102	Change Public Agency or Utility Office in R and NB&O to Special Use. (Change was not made by mistake)
6	109, 109a	Revised Cottage Housing (Item 4 is the Planning Commission's recommended version, an incorrect version was included in the April Draft by mistake.)
7	117	Revised Veterinary Clinics and Hospitals. (Number 2 is the Planning Commission's recommended version, an incorrect version was included in the April Draft by mistake.)
8	188 & 192	Proposed Amendment #182 has not been clearly stated on both subsections G-2 and H-3.
<b>Please Note:</b> Numbering, spelling, and clerical errors will be changed before codification.		

**Development Agreement (DA)**

A Development Agreement (DA) is a process that identifies special opportunities for achieving public benefits for specific properties or large areas and to allow alternative uses and development standards for these properties or areas that differ from the general provisions of the code in a manner that is compatible with adjacent uses.

~~Exception B-1.1c: The base height may be increased subject to approval of Development Agreement.~~

**Grade, Existing**

The elevation of the ground surface in its natural state, before construction, grading, filling, or excavation.

Table 1. Residential Type Uses

NAIBS	SPECIFIC LAND USE	R4- R6	C6- R12	R18- R48	NB & O	CB	RB & I
<b>RESIDENTIAL GENERAL</b>							
	Single Family Detached	P	P	C	C		
	Duplex	P-i	P	P	P		
	Accessory Dwelling Unit	P-i	P-i	P-i	P-i	P-i	P-i
	Single Family Attached	P-i	P	P	P		
	Apartment		C	P	P	P	P
	Cottage Housing	C-i	P-i	P-i			
	Manufactured Home	P-i	P-i	P-i			
	Mobile Home Park	P-i	P-i	P-i			
	Affordable Housing	P-i	P-i	P-i	P-i	P-i	P-i
	Home Occupation	P-i	P-i	P-i	P-i	P-i	P-i
<b>GROUP RESIDENCES</b>							
	Adult Care and Assisted Care Facilities	C-i	C-i	P-i	P-i	P-i	P-i
	Boarding House	C-i	C-i	P-i	P-i	P-i	P-i
	Community Residential Facility-I (Less than 11 residents and staff)	C-i	C-i	P-i	P-i	P-i	P-i
	Community Residential Facility-II			P-i	P-i	P-i	P-i
721310	Dormitory		C-i	P-i	P-i	P-i	P-i
<b>TEMPORARY LODGING</b>							
721191	Bed and Breakfasts	P-i	P-i	P-i	P-i	P-i	P-i
72111	Hotel/Motel					P	P
<b>MISCELLANEOUS</b>							
	Animals, Small, Keeping and Raising	P-i	P-i	P-i	P-i	P-i	P-i
<b>P = Permitted Use</b>				<b>S = Special Use</b>			
<b>C = Conditional Use</b>				<b>-i = Indexed Supplemental Criteria</b>			

**~~Adult Care and Assisted Care Facilities~~**

- ~~1. Senior dwellings may include common dining and recreation facilities.~~
- ~~2. Minimum 1 parking space per 2 dwelling or sleeping units.~~

- B-1.7 For purposes of this code, in most instances only broad use classifications, that share similar characteristics are listed in the use tables. Where separate regulations or permit processes are necessary, uses are classified further. Some uses are identified by description and for .....with detailed description and for general reference purposes by with a detailed description provided in a referenced North American Industrial Classification System (NAISC) Code (NAISC) number. (This system classifies land uses by categories and provides sub-classification for more detailed associated uses.) In case of a question as to the inclusion or exclusion of a particular proposed use, which is not identified in these tables, the Director shall have the authority to make the final determination, according to the characteristics of the proposed use the use shall not be permitted unless allowed through a code interpretation applying the criteria for Unlisted Use found in the Index of Supplemental Use Criteria. Temporary Uses are allowed under criteria listed in the Index.
- B-1.8 The Director is authorized to make reasonable accommodations to provisions of the code that apply to dwellings occupied or to be occupied by disabled persons as defined by the Federal Fair Housing Act and Fair Housing Act Amendments, when such reasonable accommodations may be necessary in order to comply with such acts. All such accommodations shall be personal to the applicant and shall expire immediately if the disabled applicant terminates occupancy at the subject site.

**-U-****Unlisted Use**

1. Recognizing that there may be uses not specifically listed in this Title, either because of advancing technology or any other reason, the Director may permit or condition such use upon review of an application for code interpretation for an unlisted use (Chapter III, Section 3, Type A Action) and by considering the following factors:
  - a. The physical characteristics of the unlisted use and its supporting structures, including but not limited to scale, traffic, hours of operation, and other impacts, and
  - b. Whether the unlisted use complements or is compatible in intensity and appearance with the other uses permitted in the zone in which it is to be located.
2. A record shall be kept of all unlisted use interpretations made by the Director; such decisions shall be used for future administration purposes.



Table 3. Other Uses

NAICS #	SPECIFIC USE	R4- R6	R8- R2	R4B- R4B	R4B- R4B	CB	RB & I
<b>EDUCATION, ENTERTAINMENT, CULTURE, AND RECREATION</b>							
	Adult Use Facilities					P-i	P-i
71312	Amusement Arcade						P
71395	Bowling Center				C	P	P
6113	College and University				S	P	P
56192	Conference Center	C-i	C-i	C-i	P-i	P-i	P-i
6111	Elementary School, Middle/Junior High School	C	C	C			
71391	Golf Facility	P-i	P-i	P-i			
514120	Library	C	C	C	P	P	P
71211	Museum	C	C	C	P	P	P
	Nightclubs (excludes Adult Use Facilities)					C	P
7111	Outdoor Performance Center						S
	Parks and Trails	P	P	P	P	P	P
	Performing Arts Companies/Theater (excludes Adult Use Facilities)					P-i	P-i
6111	School District Support Facility	C	C	C	C	P	P
6111	Secondary or High School	C	C	C	C	P	P
6116	Specialized Instruction School	C-i	C-i	C-i	P	P	P
71399	Sports/Social Club	C	C	C	C	P	P
6114 (5)	Vocational School	C	C	C	C	P	P
<b>GOVERNMENT</b>							
9221	Court					P-i	P-i
92216	Fire Facility	C-i	C-i	C-i	P-i	P-i	P-i
	Interim Recycling Facility	P-i	P-i	P-i	P-i	P-i	P-i
92212	Police Facility				S	P	P
92	Public Agency or Utility Office	PS-i	PS-i	PS	PS	P	P
92	Public Agency or Utility Yard	P-i	P-i	P-i			P-i
221	Utility Facility	C-i	C-i	C-i	P-i	P-i	P-i
<b>HEALTH</b>							
622	Hospital	C-i	C-i	C-i	C-i	P-i	P-i
6215	Medical Lab					P	P
6211	Medical Office/Outpatient Clinic	C-i	C-i	C-i	P	P	P
623	Nursing and Personal Care Facilities			C	C	P	P
<b>REGIONAL</b>							
	School Bus Base	S-i	S-i	S-i	S-i	S-i	S-i
	Transfer Station	S	S	S	S	S	S
	Transit Bus Base	S	S	S	S	S	S
	Transit Park and Ride Lot	S-i	S-i	S-i	P	P	P
	Work Release Facility						S-i

P = Permitted Use  
C = Conditional Use

S = Special Use  
-i = Indexed Supplemental Criteria

## Cottage Housing

1. The total floor area of each cottage unit shall not exceed 1000 square feet. The maximum first floor or main floor area for an individual cottage housing unit shall be as follows:
  - For at least 50 percent of the units in a cluster, floor area shall not exceed 650 square feet;
  - For no more than 50 percent of the units in a cluster, the floor area may be up to 800 square feet.
2. The following number of cottage housing units shall be allowed in place of each single family home allowed by the density of the zone:
  - If all units do not exceed 650 square feet on main floor:  
2.00
  - If any unit is between 651 and 800 square feet on main floor:  
1.75
3. Cottage homes shall be developed in clusters of minimum 4 to a maximum of 12 homes.
4. The height limit for all structures shall not exceed 18 feet. The ridge of pitched roofs with a minimum slope of 6 and 12 may extend up to 25 feet. All parts of the roof above 18 feet shall be pitched.
5. Cottage home units shall be oriented around and have the covered porches or main entry from the common open space. The common open space must be at least 250 square feet per cottage home.
6. Cottage homes shall have a covered porch or entry at least 60 square feet in size.
7. All structures shall maintain 10 feet of separation within the cluster.
8. Parking for each cottage home unit shall be provided as follows:
  - Units that do not exceed 650 square feet on main floor:  
1.5
  - Units that exceed 650 square feet on main floor:  
2.0
9. Parking shall be:
  - clustered and separated from the common area by landscaping and/or architectural screen.
  - screened from public streets and adjacent residential uses by landscaping and/or architectural screen.

- not be permitted within 40 feet of a public street, except within a 50 foot area fronting on a public street; parking spaces may be within 15 feet of a public street.
10. Setbacks for all structures from the property lines shall be an average of 10 feet, but not less than 5 feet, except 15 feet from a public street.

## **Veterinary Clinics and Hospitals**

2. The portion of the building or structure in which animals are kept or treated shall be constructed so as to prevent incursion of noise from animals into any residential zone.

- iv. *In addition, the applicant shall be required to plant four trees for each significant tree removed that would otherwise count towards the minimum retention percentage. Trees replaced under this provision shall be at least 12 feet high for conifers and 3 inches in caliper for deciduous trees. This provision may be waived by the Director for restoration or enhancement projects conducted under an approved vegetation management plan. ~~under Exception G-2(a)iv and Exception H-3(a)iii.~~*

- iii. Exception H-3:  
The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.

# **DEVELOPMENT CODE** **TECHNICAL CORRECTIONS**

May 22, 2000

Technical Correction #	Code Page	Description
1	17 & 103	Remove brothers and sisters from Family definition on page 17. Add definition of Immediate family to B., Accessory Dwelling Units, 3. Staff made clerical error.
2	204	Add vehicle parking standards for single family detached and duplexes.
3	Eng. Dev. Code 15	Add standards and drawing for off street parking construction standards.

**Please Note:**

Numbering, spelling, and clerical errors will be changed before codification.

**Family**

An individual; two or more persons related by blood or marriage; ~~brothers and sisters~~, a group of eight or fewer residents, who are not related by blood or marriage, living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. For purposes of this definition, minors living with a parent shall not be counted as part of the maximum number of residents.



3. Either the primary residence or the accessory dwelling unit shall be occupied by an owner of the property or an immediate family member of the property owner. Immediate family includes parents, grandparents, brothers and sisters, children and grandchildren.

Accessory dwelling unit shall be converted to another permitted use or shall be removed, if one of the dwelling units ceases to be occupied by the owner as specified above.

- B-3.1 All vehicle parking and storage for single family detached dwellings and duplexes must be in a garage, carport or on an approved impervious surface. Any impervious surface used for vehicle parking or storage must have direct and unobstructed driveway access.
- B-3.2 On property occupied by a single family detached residence or duplex, the total number of vehicles parked or stored outside of a building shall not exceed six, excluding recreational vehicles and trailers. This section shall not be interpreted to allow the storage of junk vehicles as covered in III. 10.e).

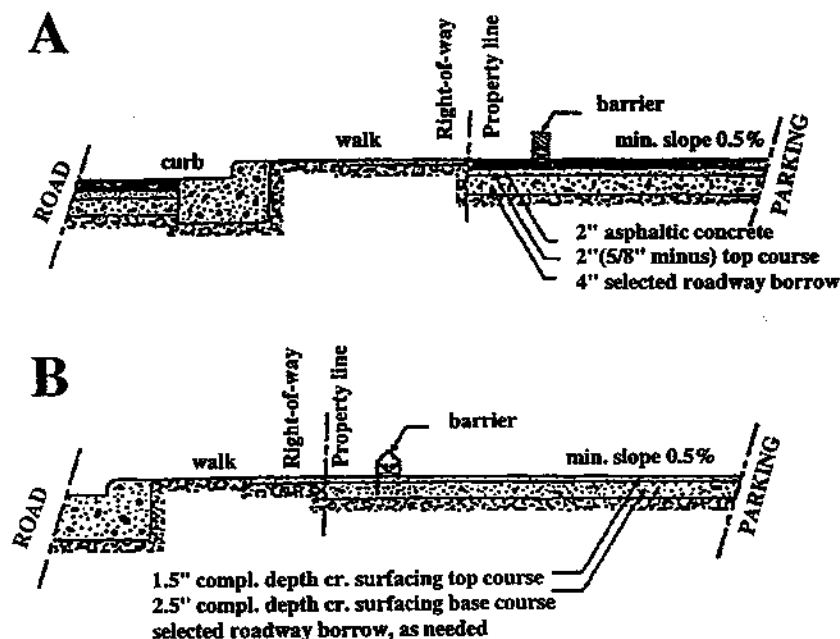
B-3.1 will become B-3.3 and all other will shift

# 19. Off-street parking construction standards

A. Off-street parking areas shall have dust-free, all-weather surfacing. Typical approved sections are illustrated below. Frequently used (at least five days a week) off-street parking areas shall conform to the standards shown in (A) below or an approved equivalent. If the parking area is to be used more than 30 days per year but less than five days a week, then the standards to be used shall conform to the standards shown in (B) below or an approved equivalent. An exception to these surfacing requirements may be made for certain uses that require intermittent use of their parking facilities less than 30 days per year. Any surface treatment other than those graphically illustrated below must be approved by the Director.

B. Grading work for parking areas shall meet the requirements in Chapter V, Section 5. in the Development Code.

## Minimum Surfacing Requirements:



## **ATTACHMENT B**

### **ORDINANCE NO. 238**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ADOPTING A UNIFIED DEVELOPMENT CODE; AND ADOPTING A NEW TITLE 20, REPEALING ORDINANCE 230 SECTION 1, REPEALING SMC CHAPTERS 16.25 AND 16.30, AND REPEALING SMC TITLE 18.**

WHEREAS, pursuant to Ordinance No. 11, the City Council adopted Title 21A of the King County Code as the interim zoning code of the City of Shoreline; and

WHEREAS, Shoreline's first Comprehensive Plan was adopted on November 23, 1998 that included Goal No. 1 – "Develop and Adopt Permanent Codes that implement the Policies of the Comprehensive Plan"; and

WHEREAS, an extensive public participation process was conducted in developing a new code to implement the Comprehensive Plan including:

- Ten meetings of the 37-member Planning Academy between April and September 1999 which educated staff about the values of Shoreline's neighborhoods and individuals;
- Public review and requests for amendments from July 15 through August 13, 1999;
- A Planning Commission and Academy joint workshop on Phase I of the Code held July 29, 1999;
- Public hearings on September 2, September 16, and October 21, 1999 by the Planning Commission and a unanimous recommendation to the City Council for approval of the Development Code, Phase I.
- A December 6, 1999 City Council workshop on the Academy work, Development Code Phase I status and issues, and on the preparation of Phase II; and
- A public hearing before the City Council to consider adoption of Phase I of the Development Code and minimum lot size and density for Low Density Residential zones; and

WHEREAS, Phase I of the Development Code amending procedural and administrative provisions of the zoning code, a minimum lot size, and density provisions was adopted on February 28, 2000 by the City Council following a public hearing; and

WHEREAS, Phase II of the Development Code adopting new development regulations for zoning, design, engineering, and critical areas together with over 400 amendments proposed during the public comment period was reviewed by the Planning Commission at a public hearing and three workshops; and