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**Council Meeting Date: October 8, 2007**

**Agenda Item: 8(a) 9(a)**

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

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| <b>AGENDA TITLE:</b> Ordinance 478 - Amendments to the Development Code       |
| <b>DEPARTMENT:</b> Planning and Development Services                          |
| <b>PRESENTED BY:</b> Joe Tovar, Director<br>Steven Szafran, Associate Planner |

**PROBLEM/ISSUE STATEMENT:**

The City Council adopted thirteen development code amendments at the June 11, 2007 meeting, but held over two items (Amendments #5 [modifying thresholds for SEPA Exemptions] and #9 [Modifying Residential Densities in Community Business Zones]) for subsequent review. The Council discussed these items on August 7, and requested that staff hold a public meeting in September and bring the items back for a joint City Council/Planning Commission public hearing scheduled for October 8. The public meeting was held September 27. This memorandum discusses both proposed amendments and includes comments that staff heard at the public meeting.

**ALTERNATIVES ANALYZED:** The following options are within Council's discretion:

1. The Council could adopt amendments #5 and #9 as recommended by the Planning Commission and Staff by adopting Ordinance No. 478 (Attachment A).
2. The Council could adopt revised versions of amendments #5 and/or #9, provided that the revisions are within the scope (i.e., did not exceed the parameters) of the alternatives reviewed by the Planning Commission.
3. The Council could choose not to adopt amendments #5 and/or #9.
4. The Council could remand amendments #5 and/or #9 to the Planning Commission for further discussion. If the Council does so, it should provide some direction as to what specifically the Commission should focus on during its review.

**FINANCIAL IMPACTS:**

There are no direct financial impacts to the City of the amendments proposed by Planning Commission and Staff.

**RECOMMENDATION**

Motion to adopt Ordinance 478.

Approved By:

City Manager 

City Attorney 

## **INTRODUCTION**

Sixteen potential development code amendments were discussed at the June 11, 2007 Council meeting. Thirteen were passed and one was withdrawn. Council reached no decision on amendments #5 and #9 and directed that these be brought back for Council consideration. They were reviewed on August 7, and the staff was asked to schedule a public meeting and a subsequent joint hearing.

## **BACKGROUND**

At the August 7 meeting, several citizens spoke on Amendment #9, and the Council concluded that many who spoke did not understand the scope and purpose of the amendment. Councilmembers requested that staff hold a public meeting to explain both proposed amendments and then schedule a public hearing, to be held jointly with the Planning Commission, to gather public comment on the proposals.

A public meeting was held on September 27, 2007, to discuss these proposals. The public hearing requested by Council is scheduled for October 8. The September 27 meeting was advertised in Currents and a flyer. In addition, a letter was sent to people who emailed concerns on this topic to the Council (Attachment C). Staff estimates that 40 people attended the public meeting. Attachment D of the memo summarizes the questions from the September 27 meeting that staff can answer without additional research. Staff will offer a more complete response in its presentation prior to the public hearing.

## **AMENDMENTS AND ISSUES**

Exhibit 1 to Attachment A includes a copy of the original and proposed amending language shown in legislative format. Legislative format uses strikethroughs for proposed text deletions and underlines for proposed text additions. The following is a summary of the proposed amendments, with staff analysis and Planning Commission recommendation. The Commission recommended approval of Amendment #5 and Amendment #9. Staff concurs in all respects with the Commission's recommendations.

## **Amendment #5—Increase the SEPA exemptions for minor new construction**

This amendment would raise the threshold for when a SEPA checklist would have to be submitted with minor new construction, exempting new residential structures of up to 20 dwelling units, new commercial space up to 12,000 square feet with parking for up to 40 automobiles, and the construction of a parking lot for up to 40 automobiles.

Redundant regulation does not increase environmental protection, but does add to the cost of all development, including housing. It also frustrates GMA Goal #7 which states that local government permit processes should be timely, fair, and predictable. The Planning Commission recommended exempting minor new construction from SEPA in order to streamline the permit process. This action would not sacrifice environmental protection because local development codes address issues that would be raised through a SEPA review.

At the June 11 meeting, several Councilmembers voiced support for the proposal while others expressed questions and concerns. Following are staff responses and clarifications to questions raised by Councilmembers:

1. This amendment does not excuse new development of any size from the City's requirement that developments meet public facility standards. All proposals must meet adequacy of public facility criteria enumerated in the Development Code including traffic, sewer, water, and surface water controls *regardless of whether SEPA review is required*.
2. The amendment does not lessen City or public review requirements for plats and short plats. Public notice and process is still mandatory for short subdivision and subdivision review.
3. The amendment does not affect review requirements for sites with critical areas or critical areas buffers. The proposed SEPA exemptions would not apply to development proposals on such sites, so those with critical areas will continue to be subject to SEPA environmental review.

At the September 27 meeting, a number of questions were raised about the implications of this proposal. The questions and responses are detailed in Attachment D.

## **Amendment # 9 – Residential density in CB zones within walking distance of transit and services along Aurora and Ballinger Way**

Amendment #9 would modify the code to regulate residential density in CB (Community Business) zones in the same way as RB (Regional Business) zones, provided that those CB zones are within a quarter mile walking radius of Aurora Avenue or Ballinger Way. The RB zone regulates the building envelope of new construction (i.e., the height, setback, and maximum lot coverage), but does not limit the range of commercial uses nor dictate the number of residential units within the building.

Amendment #9 only affects properties that are zoned as CB or properties that are designated for commercial uses, and only if these properties are within 1300 feet of

Aurora Avenue or Ballinger Way. It does not affect residentially R-zoned properties in single family neighborhoods.

What are the benefits of this proposal?:

1. This proposal would encourage more efficient use of properties planned and zoned for more intense development.
2. The additional units that could result from this change would tend to reduce market pressure to increase housing density in existing residential neighborhoods.
3. Encouraging additional units in these areas allows the City, water, and sewer districts to better plan where to upgrade infrastructure, including transportation and pedestrian infrastructure.
4. This would encourage walkability and the potential for creating enough critical mass to support development of "third places", where people want to congregate to do business and buy services.
5. The proposal would result in additional housing types that provide an alternative for those who don't want a single-family home (due to cost, time/upkeep constraints or basic lifestyle choices). In the long run, these alternatives free up single family homes for those who desire that form of residence, such as families with children.

When preparing the amendment, staff reviewed the Comprehensive Plan and identified parcels that would potentially be affected (see Attachment B, map showing parcels designated RB [Regional Business] and those designated CB or MU [Mixed Use] that has a potential for CB zoning).

The Planning Commission recommended 1300 feet as the boundary for this change, (i.e., it would not affect parcels beyond a 1300 foot radius from Aurora or Ballinger.) This is consistent with the quarter-mile that Dan Burden recommended for walkable communities. Although the Commission recommended 1300 feet specifically, the Council has the discretion to limit the reach of Amendment #9 to a lesser distance. For example, 1000 or 1200 feet would also roughly correspond to a five minute walk from either Aurora Avenue or Ballinger Way.

Attachment D addresses some of the questions raised at the September 27 meeting. Staff will develop a more complete response for its October 8 presentation.

#### **ALTERNATIVE AMENDMENT**

The Council under its authority in 20.30.100 to initiate Development Code amendments could direct staff to consider an alternative amendment. Noticing requirements in the Development Code would require the City to re-advertise any alternative amendment and would require an additional Public Hearing and Planning Commission recommendation.

#### **RECOMMENDATION**

Motion to adopt Ordinance 478.

#### **ATTACHMENTS**

- Attachment A: Ordinance 478  
Attachment B: Map showing parcels with RB and CB zoning or zoning potential within a 5-10 minute walk (approximately 1300 feet) of Aurora Avenue or Ballinger Way  
Attachment C: Letter to residents who emailed concerns on Ord. 478  
Attachment D: Questions pertinent to the proposal that were raised at the September 27 public meeting

**ORDINANCE NO. 478**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE MUNICIPAL CODE SECTIONS 20.30.560 CATEGORICAL EXEMPTIONS, AND 20.50.020(2) DENSITIES AND DIMENSIONS FOR RESIDENTIAL DEVELOPMENT IN CERTAIN COMMERCIAL ZONES.**

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000;

WHEREAS, the Shoreline Municipal Code Chapter 20.30.100 states “Any person may request that the City Council, Planning Commission, or Director initiate amendments to the text of the Development Code”; and

WHEREAS, City staff drafted several amendments to the Development Code;

WHEREAS, the Planning Commission held a Public Hearing, and developed a recommendation on the proposed amendments; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code including:

- A public comment period on the proposed amendments was advertised from December 14, 2006 to December 28, 2006 and
- The Planning Commission held a Public Hearing and formulated its recommendation to Council on the proposed amendments on March 15 and April 17, 2007.
- The City Council discussed these amendments on June 11, 2007 and August 20, 2007
- The Planning Commission and City Council held a joint public hearing on October 8, 2007

WHEREAS, a SEPA Determination of Nonsignificance was issued on December 28, 2006, in reference to the proposed amendments to the Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development for comment pursuant to WAC 365-195-820; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in Title 20 for adoption of amendments to the Development Code;

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

**Section 1. Amendment.** Shoreline Municipal Code Chapter 20.30.560 and 20.50.020(2) is amended as set forth in Exhibit 1, which is attached hereto and incorporated herein.

**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 3. Effective Date and Publication.** A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

**PASSED BY THE CITY COUNCIL ON OCTOBER 8, 2007**

\_\_\_\_\_  
Mayor Robert L. Ransom

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Scott Passey  
City Clerk

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

Publication Date:     October 11, 2007  
Effective Date:       October 16, 2007

**20.30.560 Categorical exemptions – Minor new construction.**

The following types of construction shall be exempt, except: 1) when undertaken wholly or partly on lands covered by water; 2) the proposal would alter the existing conditions within a critical area or buffer; or 3) a rezone or any license governing emissions to the air or discharges to water is required.

- A. The construction or location of any residential structures of ~~four~~ up to 20 dwelling units.
- B. The construction of an office, school, commercial, recreational, service or storage building ~~4,000~~ up to 12,000 square feet of gross floor area, and with associated parking facilities designed for ~~20~~ up to 40 automobiles.
- C. The construction of a parking lot designed for ~~20~~ up to 40 automobiles.
- D. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. (Ord. 324 § 1, 2003; Ord. 299 § 1, 2002; Ord. 238 Ch. III § 9(h), 2000).



**Table 20.50.020(2) – Densities and Dimensions for Residential Development in Nonresidential Zones**

| <b>STANDARDS</b>   | <b>Neighborhood Business (NB) and Office (O) Zones</b> | <b>Community Business (CB) Zone</b> | <b>Regional Business (RB) and Industrial (I) Zones</b> |
|--|--|-------------------------------------|--|
| Maximum Density: Dwelling Units/Acre                           | 24 du/ac   | 48 du/ac (1)                        | No maximum   |
| Minimum Front Yard Setback                                     | 10 ft  | 10 ft                               | 10 ft  |
| Minimum Side Yard Setback from Nonresidential Zones            | 5 ft   | 5 ft                                | 5 ft   |
| Minimum Rear Yard Setback from Nonresidential Zones            | 15 ft  | 15 ft                               | 15 ft  |
| Minimum Side and Rear Yard (Interior) Setback from R-4 and R-6 | 20 ft  | 20 ft                               | 20 ft  |
| Minimum Side and Rear Yard Setback from R-8 through R-48       | 10 ft  | 10 ft                               | 15 ft  |
| Base Height (4)-(2)  | 35 ft  | 60 ft                               | 65 ft (2)(3)   |
| Maximum Impervious Surface                                     | 85%  | 85%                                 | 95%  |

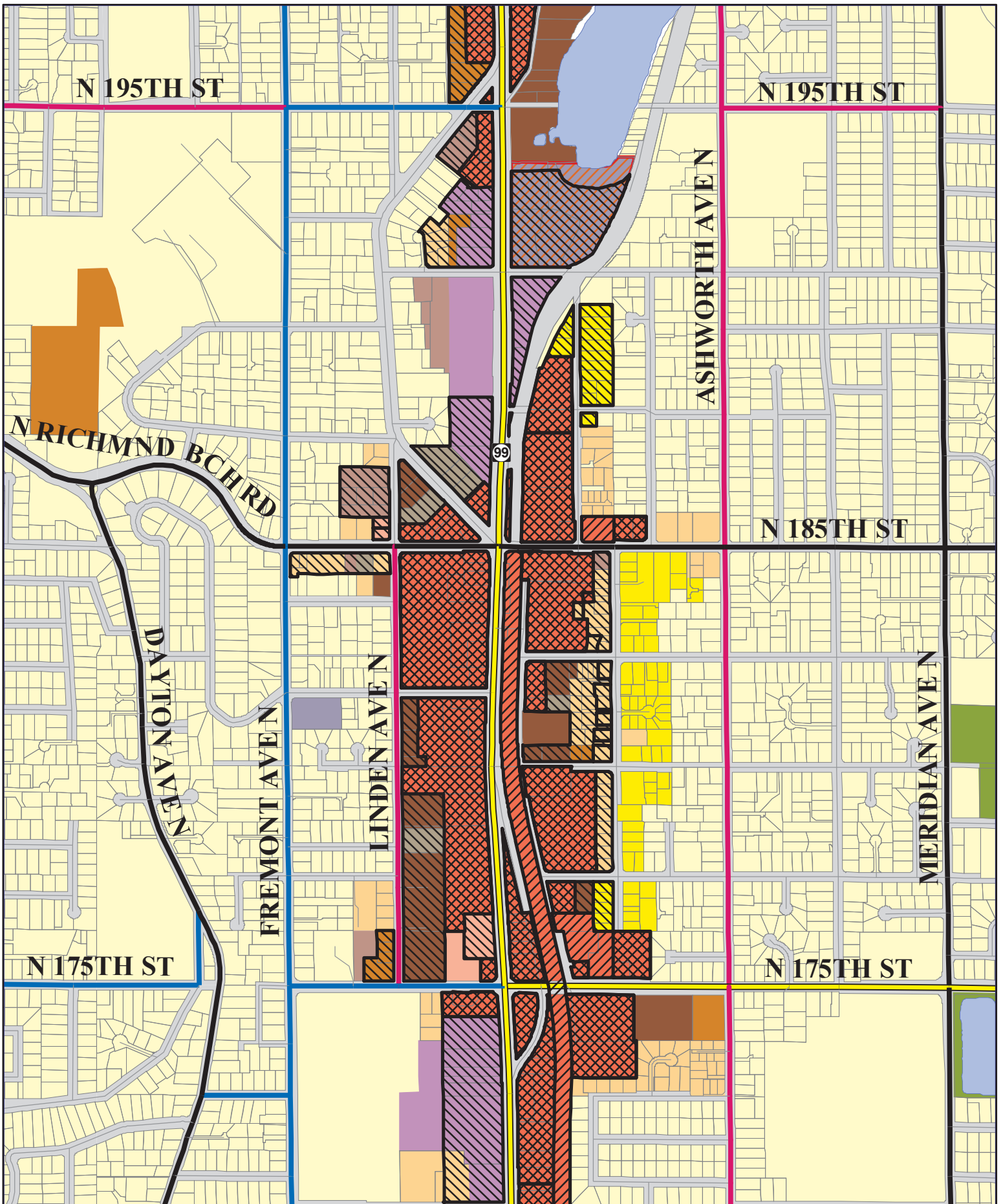
**Exceptions to Table 20.50.020(2):**

(1) For all parcels zoned CB within 1300 feet of Aurora Avenue or Ballinger Way, there is no residential density limit. Development is subject to all other requirements of the Shoreline Development Code.

(4) (2) See Exception 20.50.230(3) for an explanation of height bonus for mixed-use development in NB and O zones.

(2)(3) For all portions of a building in the I zone abutting R-4 and R-6 zones, the maximum height allowed at the yard setback line shall be 35 feet, 50-foot height allowed with additional upper floor setback (transition line setback) of 10 feet. To 65 feet with

*additional upper floor setback (transition line setback) of 10 feet after 50-foot height limit. Unenclosed balconies on the building are above the 35-foot transition line setback shall be permitted to encroach into the 10-foot setback.*



**SHORELINE**

Geographic Information System  
**Potential Community Business**  
 Representation of Official Zoning Map Adopted By City Ordinance No. 232.  
 Shows amendments through April 3, 2007.

**Zoning Designation**

|                                  |                                    |
|----------------------------------|------------------------------------|
| R-4: Residential, 4 units/acre   | NR: Neighborhood Business          |
| R-6: Residential, 6 units/acre   | CB: Community Business             |
| R-8: Residential, 8 units/acre   | NCBD: North City Business District |
| R-12: Residential, 12 units/acre | RB: Regional Business              |
| R-18: Residential, 18 units/acre | I: Industrial                      |
| R-24: Residential, 24 units/acre | CZ: Contract Zone                  |
| R-48: Residential, 48 units/acre | Regional Business-Contract Zone    |
| O: Office                        |                                    |

**Other Map Features**

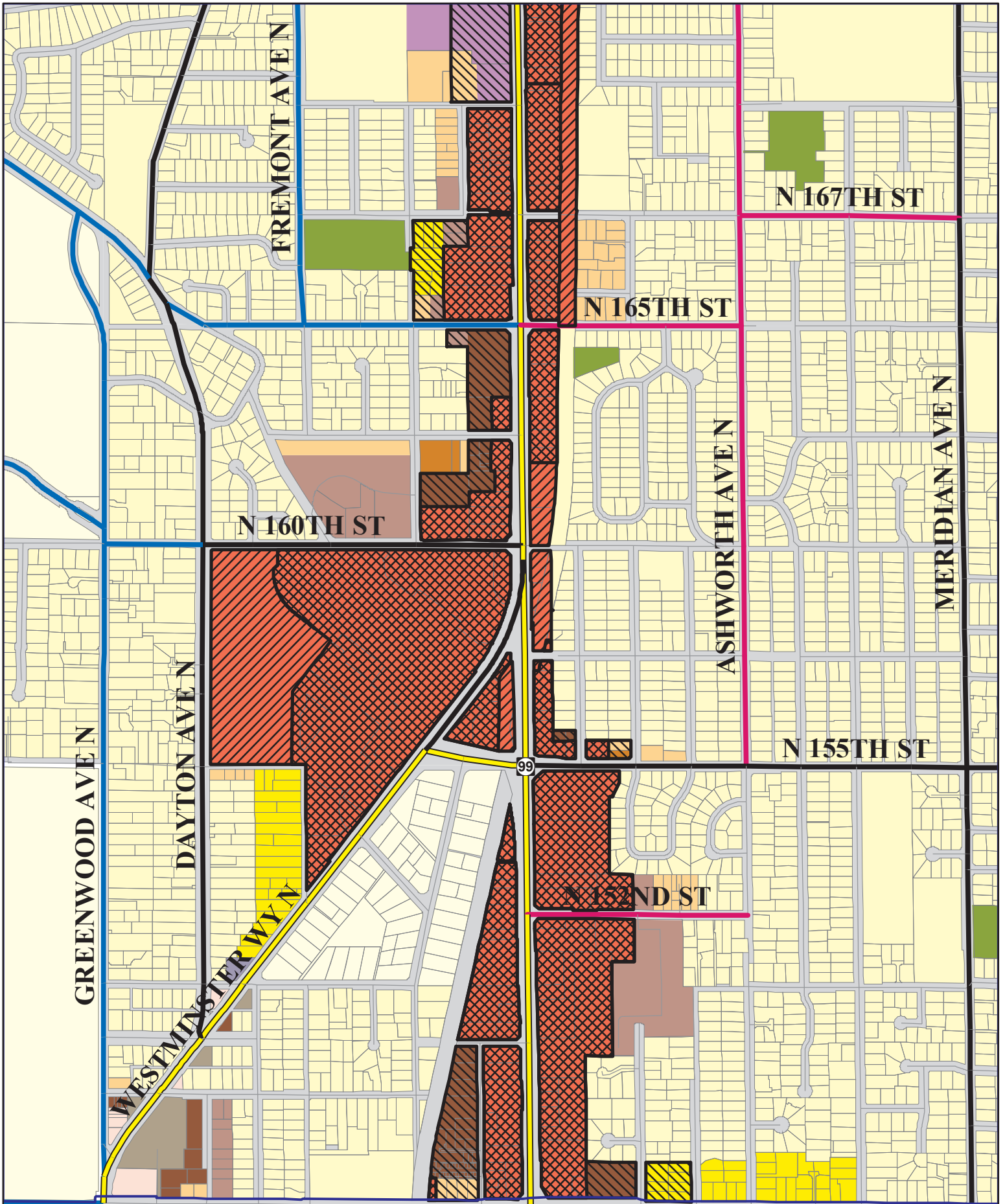
|                         |                           |
|-------------------------|---------------------------|
| Zoning: RB; 250 acres   | Park                      |
| Comp. Plan: RB, CB & MU | Tax Parcel Boundary       |
|                         | Unclassified Right of Way |

1 inch equals 750 feet

0 145 290 580 870 1,160 Feet

No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.

Filename: j:\gis\maps\pads\ZoningPotentialCB\_Aurora.mxd  
 Updated: 8/10/2007



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File name: j:\gis\maps\pads\ZoningPotential\CB\_Aurora.mxd  
 Updated: 8/10/2007

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17544 Midvale Avenue North  
Shoreline, WA 98133-4921  
(206) 546-1811 ♦ Fax (206) 546-8761

August 30, 2007

Dear Concerned Citizen:

Thank you for your email message regarding the Amendment #9 portion of proposed City Council Ordinance #478. From the concerns expressed in your email and received by others, two things are evident: First, there is an incorrect understanding about what proposed Amendment #9 would actually do; second, there was concern expressed that people did not have sufficient time to review the actual proposal and requested the opportunity to give input directly to the Council.

**What is being proposed?**

As shown on the attached table, Amendment #9 would modify the density standard for those properties now zoned Community Business (CB) zone that are also within 1300 feet of Aurora Avenue or Ballinger Way. Instead of the "48 dwelling units per acre" standard for such lands (middle column of the table), the new density standard would be identical to that for Regional Business (RB) zones (right column of the table), which is "no maximum." The term "no maximum" means that the number of units on a site will be governed by 1) the building envelope (its permitted height and lot coverage) and 2) the amount of parking required by the development code, given the number of proposed units..

The proposal would only affect sites already zoned Community Business (CB) that are within 1300 of Aurora or Ballinger. Amendment #9 would not "promote high density dwellings in the traditional single family areas of the city" as some have suggested. No change is proposed for residentially "R" zoned lands, even those within 1300 feet of these arterials. Another comment was "rezoning for business properties is one thing and altering neighborhoods is a completely different matter." We agree with that sentiment. However, as noted, the only properties affected by Amendment #9 would be lands **already zoned for business**, and only if those lands are within 1300 of Aurora Avenue or Ballinger Way.

**What are the next steps in the process?**

The City Council has scheduled a public hearing on Ordinance #478 for 7:30 p.m. on Monday, October 8, 2007. This will be a joint hearing with the City Planning Commission. You are welcome to send a comment letter, speak at the hearing, or both.

Because of the widespread confusion about what Amendment #9 specifically would do, the Council has also set an informational public workshop on this subject for **7:00 p.m. on Thursday, September 27, 2007** at the Shoreline Fire Training Facility, 17525 Aurora Avenue North. Interested citizens are invited to learn more about the details and effect of Ordinance #478 in order to provide informed comment at the October 8 public hearing.

In the meantime, if you would like to review a copy of proposed Ordinance #478, the staff memoranda on this topic or minutes of the two prior Planning Commission hearings, please feel free to visit the Planning Department at City Hall, or contact project planner Steve Szafran to have a copy sent to you. Mr. Szafran's phone is (206) 546-0786, his email is [sszafran@ci.shoreline.wa.us](mailto:sszafran@ci.shoreline.wa.us). Again, thank you for your email comments.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Tovar", with a large, stylized loop at the beginning.

Joseph W. Tovar  
Planning and Development Services Director

Attachment: Table 50.50.020(2) -- Proposed Amendment to CB regulations

## ATTACHMENT D

### Questions about modifying SEPA exemption

*What does SEPA do?*

The State Environmental Policy Act (SEPA) provides a way to identify possible environmental impacts that may result from governmental decisions. These decisions may be related to issuing permits for private projects, constructing public facilities, or adopting regulations, policies or plans.

The SEPA Rules establish the requirements for conducting environmental review of a proposal. Information provided during the SEPA review process helps agency decision-makers, applicants, and the public understand how a proposal will affect the environment. This information can be used to change a proposal to reduce likely impacts, or to condition or deny a proposal when adverse environmental impacts are identified.

*What do current regulations accomplish? Are residents protected if this change is made?*

As more cities and counties are planning under Growth Management Act, chapter 36.70A RCW, many environmental concerns are being considered during the development of plans and the implementing regulations. Under GMA, cities and counties adopt policies, plans, and regulations to manage land use, environmental resources, and other aspects of growth within their jurisdiction.

Locally adopted rules and regulations must incorporate into their development regulations processes for determining adequacy of certain public facilities. This process for determining adequacy or consistency is the same for both exempt and non-exempt proposals. If exempt proposals cannot demonstrate that adequate service levels exist for traffic, water, sewer, fire protection, streets, and stormwater management then the impact must be mitigated through upgrades to the facilities, or the proposal must be modified. This review occurs with or without SEPA.

*Why not maintain a SEPA appeal process?*

Appeals of categorically exempt proposals are not being eliminated. The State has provided an appeal process under the Land Use Petition Act (LUPA). LUPA appeals are heard in Superior Court.

*Does the proposal go too far? Why not modify the thresholds by a smaller number than is permitted by State law?*

All projects, including those that are SEPA exempt, are required to conform to the City's regulations. Because of the public's concerns about housing infill development, staff is agreeable to modifying the exemption threshold to 9 units (ie, less than 10). Staff doesn't recommend a reduction of the other threshold proposals because Shoreline's existing regulations (such as those that cover impervious surface and surface water) are conservative and provide a good deal of environmental protection.

### **Questions re: Amendment #9, residential Density in CB zones**

*How many new units might be allowed by this proposal?*

Staff estimates that this proposal could potentially affect approximately 52 acres along the 3-mile length of Aurora and 30 acres along Ballinger Way. Staff believes that it is unlikely that all the acreage will be redeveloped in mixed use buildings. If we assume that 2/3 of the acreage might redevelop in mixed use over the next 25-30 years and development at the density that has been seen in North City, this proposal would result in the potential for 1100 additional units along Aurora and 650 additional units along Ballinger.

*Won't the lines on the map that designate a 1300 foot radius from Aurora and Ballinger encourage rezoning of properties currently designated for single family development?*

The proposal before the Council does not include the adoption of a map. The sole reason for developing the map was to show where CB zoned properties are located. The regulation would reference the proximity to Aurora as a threshold of determining which CB zoned properties are affected by the change and which ones are not affected.

The proposal only affects properties zoned for Community Business or those designated in the Comprehensive Plan as appropriate for commercial uses. If properties are currently designated in the Comprehensive Plan for single-family use, the only way to change the designation is through a Comprehensive Plan Amendment (CPA). A CPA requires notice, posting on site, a public hearing before the Planning Commission, and concurrence of the City Council.

Staff does not believe the adoption of the proposal affects the probability of a CPA in this or any other area in Shoreline. From a purely market driven perspective, permitting additional units to be built on CB sites, will in the long run, probably result in less pressure to permit greater densities in areas that are currently zoned for single family development.