AGENDA

CITY OF SHORELINE PLANNING COMMISSION

REGULAR MEETING

Thursday, June 2, 2005
7:00 p.m.

Shoreline Conference Center | Board Room
18560 1st Ave NE

		Estimated Time
1.	CALL TO ORDER	**7:00 p.m.**
2.	ROLL CALL	**7:01 p.m.**
3.	APPROVAL OF AGENDA	**7:02 p.m.**
4.	DIRECTOR'S REPORT	**7:03 p.m.**
5.	APPROVAL OF MINUTES a. Wednesday, May 4, 2005 b. Thursday, May 5, 2005 c. Thursday, May 19, 2005	**7:30 p.m.**
6.	GENERAL PUBLIC COMMENT	**7:35 p.m.**

The Planning Commission will take public testimony on any subject which is not of a quasi-judicial nature or specifically scheduled for this agenda. Each member of the public may comment for up to two minutes. However, Item 6 (General Public Comment) will be limited to a maximum period of twenty minutes. Each member of the public may also comment for up to two minutes on action items after each staff report has been presented. The Chair has discretion to limit or extend time limitations and number of people permitted to speak. In all cases, speakers are asked to come to the front of the room to have their comments recorded. Speakers must clearly state their name and address.

7.	PUBLIC HEARING i. Cottage Housing a. Staff Report b. Public Testimony or Comment c. Close Public Hearing	**7:40 p.m.**
8.	COMMISSION DELIBERATIONS	**9:00 p.m.**
9.	REPORTS OF COMMITTEES AND COMMISSIONERS	**9:45 p.m.**
10.	UNFINISHED BUSINESS	**9:46 p.m.**
11.	NEW BUSINESS	**9:47 p.m.**
12.	ANNOUNCEMENTS	**9:50 p.m.**
13.	AGENDA FOR: June 16th, 2005 -Workshop Brief: Code Enforcement Regulations Update -Continued Cottage Housing Deliberations & Recommendation (if needed) **OR** Continued Deliberation on Critical Areas Ordinance	**9:55 p.m.**
13.	ADJOURNMENT	**10:00 p.m.**

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CITY OF SHORELINE

SUMMARY MINUTES OF
SHORELINE PLANNING COMMISSION
SPECIAL MEETING

May 4, 2005 Shoreline Conference Center
7:00 P.M. Board Room

PRESENT
Chair Harris
Vice Chair Piro
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili (arrived at 8:10 p.m.)

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT
Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

Chair Harris called the meeting to order at 7:03 p.m.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners Kuboi, Hall, McClelland and Phisuthikul. Commissioner MacCully and Sands were excused. Commissioner Broili arrived at 8:10 p.m.

3. TYPE C QUASI-JUDICIAL PUBLIC HEARING ON THE ECHO LAKE CONTRACT REZONE APPLICATION (FILE NUMBER 201372)

Chair Harris reviewed the rules and procedures for the public hearing. He emphasized that the Commission would only accept general testimony regarding the rezone application and not the SEPA

appeal. The hearing regarding the SEPA appeal is scheduled to take place on May 5th. He reminded the Commissioners of the rules regarding the Appearance of Fairness Law and also briefly reviewed the agenda for the hearing.

Chair Harris opened the public hearing and asked the Commissioners to disclose any communications they may have received about the subject of the hearing outside the hearing. Commissioner Hall disclosed that several weeks ago, prior to the Commission's deliberation on the site-specific Comprehensive Plan amendment for the subject property, he had dinner at Spiro's. While there, he asked the owner, Evan Volts, about the Fred Meyer remodel project and the impact it would have to his business. They also discussed the Gateway Project, and at that point Mr. Volts indicated that he was a partner with Harley O'Neil on the Echo Lake proposal. Commissioner Hall said at that point he indicated to Mr. Volts that this was the subject of a pending quasi-judicial hearing and he could not discuss the issue any further. No substantive discussion regarding the Echo Lake application took place. Members of the audience raised no Appearance of Fairness concerns.

Staff Report

Ms. Lehmberg reviewed the staff report for the proposed contract rezone for property on the south shore of Echo Lake from High Density Residential, R-48, and Regional Business (RB) to Regional Business with Contract Zone (RB-CZ), allowing for a mixed-use development. She provided a map illustrating the topography and location of the 30-inch drainage pipe that is about 20 feet deep on the subject property. She noted where the pipe discharges water into the lake. She also pointed out the location of a catch basin system that flows south through the subject property, catching site drainage and hooking up with the larger pipe that drains into the lake.

Ms. Lehmberg advised that the current zoning would allow the development of up to 240,000 square feet of commercial space and up to 357 housing units. The proposal for the contract zone would limit the intensity of development to 182,000 square feet of commercial space and 350 housing units. She explained that the purpose of the rezone is to allow for mixed-use development, which would be difficult to do with the split zoning that currently exists on the site.

Ms. Lehmberg referred the Commission to a conceptual site plan of the proposal, which identifies Echo Lake as a Type II Wetland. She noted that the applicant is proposing a 115-foot wetland buffer. Next, she referred to an elevation drawing of the proposed development, which includes structure parking and very little surface parking on the property. She explained that the proposed RB-CZ zone would allow development up to 65 feet in height, and the existing R-48 zone also allows development up to 65 feet in height with a Special Use Permit.

Ms. Lehmberg advised that, currently, the western portion of the site is designated in the Comprehensive Plan as Mixed Use, and the eastern portion as High Density Residential. However, on April 21st the Planning Commission recommended that the City Council approve a proposal to change the land use designation for the High Density Residential portion of the site to Mixed Use. If the City Council approves the change, the rezone would be compatible with the Comprehensive Plan. She pointed out

that there is also a strip of property on the site that is designated as Public Open Space. The Planning Commission has recommended that this designation remain as is.

Ms. Lehmberg referred the Commission to the conditions staff is recommending for the rezone. She noted that the applicant's proposals in the initial application included some of the proposed conditions. In addition, the staff reviewed the comments that were voiced by the public and the Planning Commission regarding the proposal.

Ms. Lehmberg reviewed that if the application were approved, the zoning designation would be Regional Business with Contract Zone (RB-CZ). The uses and design of the property, including but not limited to provisions for critical areas, off-site improvements, site grading and tree preservation, landscaping, stormwater control, and dimensional and design standards, shall comply with provisions for mixed-use developments in the RB zoning district as set forth in the Shoreline Municipal Code (SMC). She said staff understands that the proposal has changed since it was originally submitted, and City Hall is no longer a part of the proposal. As a result, the applicant has presented some alternatives to the conditions that have been proposed by staff (Attachment J in the Staff Report). She reviewed the staff's proposed rezone conditions as follows:

A. **Site configuration and uses shall generally comply with the site plan submitted with the application (Attachment C).**
B. **Residential density shall be limited to 350 dwelling units, 40 percent of which shall be affordable to middle and low-income residents.** Ms. Lehmberg noted that this condition was part of the original application, and there were also a lot of public comments about the displacement of the existing trailer park that currently provides low-income housing.
C. **Commercial floor area shall be limited to 182,000 square feet.** Ms. Lehmberg reminded the Commission that this condition was proposed as part of the original application.
D. **The housing development shall be required to provide a minimum of 420 parking spaces within the structures.**
E. **The commercial developments shall be required to provide a minimum of 600 parking spaces within the structures.** Ms. Lehmberg explained that the minimum parking space requirements are intended to encourage structure parking under the buildings. They are also intended to discourage a strip mall type of development.
F. **A parking reduction of up to 20 percent from the maximum required by SMC 20.50.390 would be allowed pursuant to SMC 20.50.400.** Ms. Lehmberg advised that a parking reduction would be allowed because of the site's proximity to transit. The site is less than ½ mile from the Metro Transit Center.
G. **The upper floor "step back" on the north sides of the buildings abutting Echo Lake and the sides of the building facing the common open space shall be required to allow sunlight into the open space. Each floor shall be setback 10 feet further than the floor below.** Ms. Lehmberg said staff proposed this condition to address the concerns that were raised regarding the scale and bulk of the buildings. Concern was expressed that 65-foot high buildings could cast shadows on the open space.
H. **Maximum impervious surface allowed on the site shall not exceed 90 percent. The open space area required for 100 feet of the wetland buffer shall not be included in this calculation.** Ms.

Lehmberg said that normally, the City would not exclude a wetland buffer from an impervious surface calculation. However, staff proposed the condition based on a lot of public comment and concern about the amount of impervious surface that would be allowed in an RB zoning district. Staff felt the proposed restriction would encourage a little more pervious area throughout the development. This is a large site, and tree retention and landscaping is something the City wants to encourage.

I. **The provisions of SMC 20.50.350(B) shall not apply to this site outside of the wetland buffer. An approved habitat restoration plan must be implemented within the wetland buffer prior to Certificate of Occupancy for any of the buildings on the site.** Ms. Lehmberg advised that staff is proposing that the SMC's provisions regarding tree retention not be applied to the site because of the design configuration proposed on the site plan. In exchange for allowing the removal of more trees than normal, a habitat restoration plan would be required for the wetland buffer.

J. **Vermin abatement shall take place prior to and during demolition and decommissioning of current site.**

K. **Stormwater treatment: At a minimum, Level 2 water quality and stormwater detention are required for development, in accordance with the SMC and the King County Surface Water Design Manual, as adopted by the City of Shoreline. Additionally, the developer shall consider working with the City to install an oversized stormwater system to further improve Echo Lake water quality, including the possibility of adding a water feature and open watercourse as the means of discharge into the lake.** Ms. Lehmberg said this condition would require that any surface water on the site be detained and any pollution generating surfaces such as parking lots must have water quality devices installed. Any runoff from impervious surface on the site would be detained and treated before being allowed to run off the site.

L. **Green Buildings: The developers shall consider pursuing a Leadership in Energy and Environmental Design or BuiltGreen certificate for the buildings in the project.** Ms. Lehmberg advised that staff wants to encourage the developer to pursue an environmental design by using low-impact development.

M. **Any SEPA mitigation measure will also be a condition.** Ms. Lehmberg advised that the SEPA threshold determination that was issued by staff was appealed. This determination required screening from the adjacent single-family development on the lake and was based on concerns raised by the public about an increase in the amount of traffic associated with the proposed project.

Ms. Lehmberg reminded the Commission that the purpose of the public hearing is for the Commission to accept public testimony on the rezone application, only. The Hearing Examiner would accept public testimony regarding the SEPA appeal on May 5th. She pointed out that anyone might testify before the Commission regarding the rezone application. However, testimony to the Hearing Examiner regarding the SEPA appeal would be limited to the applicant, appellants, expert witnesses and staff.

Mr. Stewart referred the Commission to the memorandum he forwarded to them dated May 4th. He explained that just this afternoon, Mr. Derdowski, who is a representative of Echo-Par, met with City staff and presented a list of conditions that he stated had been agreed to with the applicant. He emphasized that the conditions would be in addition to those that have been proposed by the staff. Mr. Stewart pointed out that Condition 3 states that the owner intends to apply for a permit to construct a publicly accessible beach and dock, but this would not be allowed under the City's current development

code. However, there is a proposal, under the Critical Area Ordinance, to allow for outdoor recreation. He advised that Condition 10 includes a provision that the stormwater plans comply with the Department of Ecology Stormwater Requirements. He said this would be in addition to the City's stormwater design manual. This condition could result in a complex process to review for compliance with both of the manuals. Mr. Stewart said there are a few other instances in the proposed conditions where language might be considered a bit ambiguous and would probably be difficult to enforce; but on the whole, staff generally concurs with the conditions as outlined by Mr. Derdowski.

Applicant Testimony

Harley O'Neil, 18645 – 17th Avenue Northwest, provided a brief history of the subject property. He said that in the spring of 2002 he learned that the property was for sale, and he was immediately concerned that a developer would purchase the property and close off public access to the waterfront. He contacted several citizens of the community, asking for their help in purchasing and developing the property. Their intent has always been to leave the waterfront open for the public to enjoy. He said the previous property owner had the property for more than 30 years, but he was considered an absentee landlord who completely ignored the property. Mr. O'Neil said they closed on the property in December of 2002, but because of their concern regarding the condition of the property, they received permission from the owner to make some improvements 60 to 90 days before the deal had closed. They replaced roofs, painted all of the building exteriors, etc.

Mr. O'Neil said that after his group purchased the property, he met with representatives from Legacy Partners, a company based out of California, who presented a rendition of the type of development they would like to see on the subject property. Their proposal included condominiums, apartments, two or three retail buildings, a park area and public access to the waterfront. He said this was his first attempt to find someone to purchase the property from the partners. Mr. O'Neil advised that after the partners purchased the property, the County notified them that their taxes would go up $20,000 more than the previous year. This was not expected, and they immediately realized they would not get a return on their investment.

Mr. O'Neil explained that two strong parties (YMCA and City of Shoreline) expressed an interest in relocating to Echo Lake on the subject property. He noted that there was not enough property along Aurora Avenue that was zoned RB to accommodate either of these two party's needs. They conducted a design charette to come up with ideas for placing a City Hall structure on the site if approved by the City Council and community, and the rezone proposal was submitted when the City Hall project was still under consideration for the site. The YMCA is still interested in locating on the subject property, but the current zoning does not provide enough RB zoned property to accommodate their needs. In addition, the applicants had hoped that the proposed rezone would allow them to draw people from the Interurban Trail to use the site. He noted that their goal has been to enlarge the community open space by providing parking structures instead of surface parking. The proposed rezone would also allow them to develop retail space to provide amenities for people using the Interurban Trail. The current R-48 zoning designation would not allow these types of uses. Mr. O'Neil said he also has an interest in trying to attract a nice restaurant to the site. Right now, there are good restaurants in Shoreline, but none that are really special. A restaurant near the lake could serve that need.

H. Troy Romero, Romero Montague P.S., 155 – 108th Avenue Northeast, Suite 202, Bellevue, 98004, said the applicants recently retained his services to review the proposed changes to the rezone conditions identified by City staff. He said it appears that when the original application was submitted, there was a proposal on the table that included a YMCA, City Hall and other mixed-use development. Obviously, this has changed. He said it is important to note that when the community initially reviewed the proposal during the SEPA process, a particular configuration was proposed. The conditions that are now being recommended by the staff are not necessarily consistent with the initial staff report or the project that was discussed with the community. Mr. Romero reminded the Commission that the issue before the Commission is not whether or not the rezone should be granted since the staff is recommending approval and the community has offered their support.

Mr. Romero noted that the property's current zoning designation would allow 244,000 square feet of commercial and 357 residential units, and the proposed rezone would actually decrease the density of the subject property. This would be advantageous to the community. He pointed out that if his clients cannot make the proposed project financially feasible, they could go back to the existing zoning designation. He reviewed each of the conditions proposed in the Staff Report and provided the applicant's thoughts on each as follows:

A. Mr. Romero said the applicant is recommending that the word "shall" be changed to "may" or "shall use its best efforts." He explained that while the project is well on its way, one of the advantages of the proposed zoning is to allow flexibility for the developer to create a project that is good for the community, economically feasible, etc. Once the word "shall" is attached to the contract rezone, the City would effectively dictate the project. He noted that one of the design architects has come up with a way for creating a view corridor off of Aurora Avenue to Echo Lake. This plan would create more pervious surfaces and open space, as well. If the staff's recommended conditions are approved as written, opportunities such as this might be prevented. He suggested that this would be inconsistent with the proposed zoning.

B. Mr. Romero said the applicant does not have an issue with this condition that would limit the development to 350 residential units. However, concern has been raised about the language that was added to the condition requiring that 40 percent of the units be affordable to middle and low-income residents. He said this requirement could result in the project no longer being feasible. He explained that the original plan was to provide senior housing on the subject property, but it has since been determined that the property would probably not qualify for this type of housing opportunity. He noted that no language was considered in the SEPA review to require the project to have 40 percent low or moderate-income housing. He strongly suggested that this provision be eliminated from the condition. Another option would be to use the words "may" or "seller shall use its best effort." This would allow flexibility for the project to be financially feasible.

C. Again, Mr. Romero suggested that the word "shall" be replaced with "may" or "seller shall use its best effort." He explained that because City Hall is no longer part of the proposed project, there would be potential ebb and flow with respect to the project as staff works with the applicant. There may be a desire to have more commercial than residential, etc. Without flexibility, the applicant and staff would be limited in what they could do with the project.

D. Mr. Romero pointed out that staff's recommendation is based on the original proposal that included City Hall. Perhaps even more difficult, if not financially impossible, is that one could make an

argument that all the parking spaces must be constructed before a building permit could be issued. He referred to Attachment J of the staff report, which is a letter from Mr. O'Neil dated March 28th. In his letter, Mr. O'Neil suggests that rather than binding the City staff and the applicant to a set amount of parking spaces before they know what the final configuration will be, the language in the conditions related to parking should be changed to make the parking requirements consistent with the existing SMC. This would allow the applicant to proceed as would be allowed for any other form of development as long as adequate parking could be provided.

E. See Mr. Romero's comments for Condition D.

F. Mr. Romero indicated that the applicant does not have any concerns related to this proposed condition.

G. Mr. Romero said the concept of this condition is to create ten-foot "step backs" as the development goes up each level. With a five-story building, this condition would effectively create an "Aztec pyramid" design. He suggested that not only would this create an aesthetic issue, but this type of design is not used anywhere else in the City. In addition, this proposed condition was not included as part of the SEPA review process. He suggested that the word "shall" should be replaced with "may" or "applicant shall consider." This would indicate the City's desire, but would not limit the applicant to this design. Again, he reminded the Commission that flexibility is important both to the City and to the applicant.

H. Mr. Romero said the staff correctly pointed out that, normally, the City counts all existing square footage in a project to determine the amount of impervious surface allowed. However, staff is recommending that the contract rezone go against the City's normal practice and exclude the 115-foot buffer area when calculating the amount of impervious surface allowed for the development. He questioned the rational basis for this condition, and he noted that this was not included as part of the original SEPA review process. He noted that even if the City were to count the wetland buffer, the proposed site design would still have about 85 percent impervious surface. Again, he recommended that the word "shall" be changed as previously recommended.

I. Mr. Romero said the applicant does not have any concerns related to this condition.

Mr. Romero thanked the Commission for allowing him to address the conditions that have been proposed by the staff. He said that sometimes wordsmithing can be considered an unimportant exercise, but having spent five years on the City Council of another jurisdiction, he is aware of the challenges that words can sometimes be. In this case, he suggested that if the Commission recommends adoption of the staff's recommended conditions exactly as proposed with the mandatory "shalls," they will run into problems in the future.

Commissioner McClelland asked if Mr. Romero reviewed the 13 new conditions that have been proposed by the staff. Mr. Romero said he did not receive the new document until he arrived at the meeting, so he has not reviewed the final version and cannot provide comments. Commissioner McClelland noted that all of the new proposed conditions start with the words "the owner will," which means the same things as "shall." Mr. Romero pointed out that the word "shall" by itself is not necessarily a bad thing. Terms such as "shall consider" and "shall work together" are appropriate, but if the City dictates that a condition is an absolute requirement, there would be no flexibility allowed.

Vice Chair Piro said he appreciates the applicant's sensitivity to providing some flexibility, particularly since changes have been made to the project over time. However, he said that in his view, the applicant's recommendations would change the staff's recommendations from conditions to mere guidance and would no longer have the status of what is intended by the City when they place conditions on a rezone application. Mr. Romero explained that the concept behind the proposed RB-CZ zoning recommendation is that the City and the developer could work together to make the project mutually beneficial for everyone. In this case, there is an application for a rezone that has gone through the SEPA process and public hearings. Now new conditions are being attached to the rezone application that would be obligatory. He argued that since these conditions were not subject to public opinion during the SEPA review process, perhaps the Commission should go back to the time of the original application. The conditions that use the word "shall" were never mandatory conditions as part of the SEPA review. The concept of the proposed rezone is to allow flexibility. Once the project design has been approved, then they could work out an agreement on the exact number of stalls, impervious surface, etc. He agreed that the applicant's proposed changes would significantly lessen the mandates found in the conditions, but he pointed out that the staff report already includes recommendations that the applicant consider certain concepts. There is at least some precedence in existing negotiations for the idea of the applicant and the City working together. While his client does not necessarily disagree with the conditions, if they are mandatory there would be no opportunity for flexibility.

Vice Chair Piro inquired if there would be an opportunity for staff to revisit the conditions and come up with something that would allow a range of options and keep to the spirit of what the conditions are intended to do without weakening them to the point of being wholesale and discarded. Mr. Stewart answered that the applicant has provided two responses to date. One was provided on March 28th (Attachment J) in which he suggested alternate language for the conditions proposed by staff. Now the applicant has presented a new proposal to further amend the conditions. He said staff's recommendation of approval was based upon their recommended conditions. If the Commission wants to further amend or adjust the conditions, this would be within their discretion to do during deliberations. However, there would come a point where the project would change so dramatically that it would require a new notice and perhaps a new SEPA review. The other factor the Commission should keep in mind is that the contract rezone is an agreement between the City and the applicant. If the applicant chooses not to agree with the conditions, then the contract rezone would no longer be valid. If that is the case, the applicant might as well withdraw the application at some point and come back in with a new proposal. Mr. Stewart pointed out that the applicant proposed most of the conditions recommended by the staff. The two or three that were added were in response to concerns that were raised by the community in the comment letters or they were intended to make sure that the actual development is close to what is being proposed. He concluded by stating that there comes a point where the balance gets tipped, and they are no longer reviewing the project that has been appropriately noticed.

Chair Harris said that given the new proposals that are being presented to the Commission, he suggested that they move forward with the public hearing. Since the public hearing would be continued to May 5th, perhaps staff could do some investigation of ways to address some of the new proposed conditions that have just been presented to the applicant.

Commissioner Hall noted that Mr. Romero has encouraged the Commission to stick to the standard code requirements in some cases. He asked if this recommendation would also apply to the tree retention ordinance, where staff has proposed that the normal requirements for tree retention be waived. Mr. Romero answered that the code requirements would work fine with regard to tree retention. However, his understanding is that the community and staff have indicated that there are certain significant trees within the 115-foot buffer. The concept is to allow the applicant to remove certain trees that are located within the buffer.

If the Commission were to change the "shalls" to "should" and the applicant ends up facing financial difficulties or site constraints that were not anticipated, Commissioner Hall asked what assurance the public would have that the conditions would be legally enforceable. Mr. Romero said there is a contractual provision that requires the applicant and the City to work together on the whole design/build process. The applicant would still have to obtain the necessary building permits, etc. so quality control would lie with the staff as they go through the building permit process.

Commissioner Kuboi asked if the YMCA would eventually own their portion of the property. If so, would the terms of the contract rezone be carried forward to subsequent owners of the property? Mr. O'Neil answered that the YMCA would purchase a portion of the property for their building, and an association would be formed of those people that have ownership of parcels. The association would maintain the common areas. Commissioner Kuboi noted that the applicant has offered to guarantee lake access to the public in perpetuity, but he is unclear how the applicant's proposed conditions would accomplish this. Mr. O'Neil said the property identified as public open space would create an access for the public to the waterfront. Development would not be allowed in the open space area. Consequently, the open space would remain open, and their site plans identify an area at least 40 feet wide between the property line and the structure. Their hope is that Stone Avenue could be used to provide handicap access or other access to the subject property and the open space, as well.

Mr. O'Neil emphasized that there is no intent to remove any of the trees from the buffer. Naturally, if there are trees in the location of the proposed YMCA building, they would like to be able to remove them.

Mr. Stewart explained that the subject property is one single parcel and has not been divided. If the applicant were to divide the property, it would either go through site plan process or condominium type regime. Access to the lake is not a condition of staff recommended approval of the rezone application, neither is it proposed as part of the alternate conditions presented by the applicant's representative. If that is the intent, perhaps that should be a new condition added to the contract rezone. Mr. O'Neil said he would be pleased to exchange this condition for the condition that would require him to put in 1,020 parking stalls under a building. He said he looked around Shoreline to determine the number of projects where someone even attempted to put parking under the building. The City believes it would cost $15,000 to $18,000 per stall to construct underground parking. Therefore, the staff's condition would require them to spend $15 to $18 million on parking before they could start building any of the project. If this were a requirement of the rezone, they would sell the property and leave it. Mr. O'Neil said staff has asked him at least three times if he wants to withdraw his application, and this really bothers him.

They are trying to do a project for the benefit of the community, and he wished they could get everyone on board to accomplish the task.

Commissioner Kuboi inquired if there is a type of appeal process for the public to follow if they feel that the terms of a contract rezone have been violated. Mr. Stewart said this would be considered a zoning violation, and there is a legal process for enforcement of the zoning code. Commissioner Kuboi asked if the developer would be required to stop work until the issue has been resolved. Mr. Stewart answered that this would depend on the nature of the zoning violation. If it were a violation of a permit, the permit could be withdrawn. Another option would be for the City to issue a stop work order with penalties assessed.

Commissioner McClelland reminded the Commission that the 50-foot strip of land that is and would continue to be designated and zoned as public open space is privately owned and there is no public access to the property unless the City figures out a way to buy it and grant public access.

Commissioner Kuboi requested a definition for "low to moderate income." Mr. Stewart said this term is defined in the City's development code and has to do with the proportion of income that is spent on housing in relation to housing costs. He pointed out that the proposal for affordable housing was part of the applicant's original submittal and was not proposed by staff.

Vice Chair Piro inquired if there is other instances where the City has calculated the break down of low and moderate-income housing as part of a project review. Mr. Stewart said that since the development code was adopted in 2000, he is not aware of any developments that have utilized this provision, but there have been discussions by other developers about using the affordable provision in the future.

Public Testimony or Comment

Robert Scott, 1132 North 195th Street, said he and his wife own three properties on Echo Lake, two bordering the lake and one set behind the other two. He pointed out that Mr. O'Neil purchased the property knowing what the current zoning was, and he should adhere to the current zoning. If the applicant gets into financial difficulty, the property could be sold. If it is rezoned to regional business, the new property owner would be able to develop anything they want including night clubs, casinos, etc. There is business zoning along Highway 99 and approval of the proposed rezone would be a disservice to the surrounding property owners because, with the exception of a few small offices, all development on the lake is either single-family or multi-family residential. He said that while they are glad to see that the trailer park would be eliminated, they would like the property to remain for residential uses.

Pat Scott, 1132 North 195th Street, said she and her husband have lived on Echo Lake for 60 years, and her grandparents bought the property in 1912. She loves the lake and feels that it is a wonderful, natural resource. She said she does not want development around the lake to cause further deterioration of the lake. The more building that goes on, the more damage is done to the quality of the water. She said she is concerned about the proposed high-rise structure that would be built on the site. While it is good that the buffer area would remain, it saddens her to see what has taken place in the last ten years as a result of stormwater runoff. She pointed out that Echo Lake is a "dumping ground" for everything off

the roads and parking lots. They have a little island on the southwest corner of the lake as a result of the debris that filters in this location. Whatever is developed on the site, all projects should be considerate, since everyone should be a steward of the City's natural resources.

Virginia Paulsen, 16238 – 12th Northeast, said she just learned about the agreement that Brian Derdowski and Harley O'Neil negotiated when she arrived at the meeting. She said there is too much in the document for her to comment on all of her issues. She said Mr. O'Neil indicated that he purchased the property in the spring of 2002 because he was afraid that developers would build in such a way that the site would be destroyed. She pointed out that Mr. O'Neil is a developer, and there have been a great deal of comments, both positive and negative, about his development proposals. She suggested that the Commissioners ask themselves why Echo Lake is being called Echo Lake. It is because it sits in an amphitheatre. Therefore, the area on the north boundary (192nd Street) looks down on the subject property. This means there would be a lot of noise created by the proposed project. She said the proposal for development would create the equivalent of a small city on the site, and in her opinion, this would result in major problems.

Ms. Paulsen referred to the proposed staff conditions and asked the Commission to note the number of items that are starred to indicate that the applicant has proposed alternatives. Nearly all of the staff's proposed conditions are subject to the applicant's proposed alternatives. The applicant is now proposing that the "shall statements" be watered down. She referred to the negotiated contract between Brian Derdowski, Janet Way and Harley O'Neil, and said that given the propensity to eliminate these incentives by the proposed alternatives, there would be no guarantee that the items in the agreement would be recognized. She said that while Mr. Derdowski has represented himself quite well, he does not represent her views and she does not want to drop her SEPA appeal. She concluded by stating her belief that too much information was presented just prior to the hearing for her to digest and provide comments on at the last minute.

Commissioner Broili arrived at the meeting at 8:10 p.m.

Barbara Lacy, 19275 Stone Avenue North, said she first visited Echo Lake in 1958 and purchased a house on the lake in 1960. She said she has learned to live with the public using the lake in front of her house. Now suddenly, instead of the quiet, passive park, there is a possibility of having a beach again and perhaps fishing at the south end. This causes her to reconsider based on the comments provided previously by Mr. O'Neil. She said it is thrilling to her when people go past her backyard in their kayaks, and she is glad that people are able to enjoy the lake. However, she said she now has to adjust from her sense of a quiet lake to a lake that is used again. She said she recently learned that a "primary contact recreation use" would include activities such as swimming, water skiing, skin diving, etc. A "secondary primary contact recreation use" would include activities such as wading and fishing, but not swimming. However, the staff report talks about the extraordinary primary contact recreation that takes place on the lake now. She suggested that there is confusion about what uses should and could be allowed on the lake and how the lake could be protected as a critical area. She said that when she read through the staff report, she did not realize they were considering the creation of a beach again. She suggested that many things must now be reconsidered.

Ms. Lacy referred to Mr. O'Neil's suggestion that Stone Avenue could perhaps be used for handicap access. She said she lives on Stone Avenue, and this is supposed to be a private road that is owned by Seattle City Light. Any access would have to be negotiated because the homeowners along this street have no garages. Access to the lake is a big concern, and a lot more issues must be considered before a decision could be made in that regard.

Michael Trower, 2077 East Howe Street, Seattle, 98112, said he is a development consultant and an architect by background. He said his company made a conscious decision, at that time, to provide some development assistance to Echo Lake Associates primarily because of the civic goals they were trying to accomplish with the project. He referred to the previous discussion about the condition that would require setbacks on a building that is yet to be designed. He said this type of condition could become very project specific and the request for a rezone is not project specific. In his view, this condition was established to limit the amount of development so that the City's interest would be protected in the process. The intent was not to provide a specific project.

Mr. Trower said his company is quite used to designing and developing projects according to published urban design guidelines, and the City of Shoreline has these guidelines in their municipal code. He said his assumption is that the guidelines were arrived at by public hearings and statements of policy and are intended to guide the design of any project. He referred to the condition that would require a 10-foot step back for each floor and suggested that this would be very project specific and out of context with the urban design guidelines that were duly considered. The condition would also be out of context with development that might occur on the site.

Next, Mr. Trower referred to the condition that would require a certain percentage of the housing units to be low or moderate income. He said he participated in writing the SEPA submittal, which stated that they expected a portion of the housing to be affordable to low and moderate-income households. That statement was true, and that is what they expected to occur. One of the civic goals of the development was mixed income living on the site. However, what they expected might happen with senior housing no longer appears to be feasible. He said his firm does affordable housing on a regular basis, and it takes a lot of subsidies to accomplish this goal. The applicant considered the feasibility of getting subsidies for the subject property, and it appears that this would not be a very real possibility because all of the funding entities require local, municipal participation. While the applicant's intent was to provide low to moderate-income housing, making it a requirement would be extremely difficult and probably impossible for the applicant to meet under the existing circumstances.

Ken Lyons, 17533 – 47th Avenue Northeast, Lake Forest Park, 98155, said he is a business owner in the City of Shoreline. He said he assisted Echo Lake Associates with preparing the initial documents that were submitted for the rezone. He said he has always had a lot of enthusiasm about the idea of being able to take a split-zoned property and create a project that is unified in its design and more than what was possible under the current zoning configuration without increasing the overall density. That is why he got involved in the project. He said he was quite surprised to find out the conditions of approval that were recommended by the staff. He disagreed with the staff's statement that the conditions of approval that are in the Staff Report are items the applicant suggested. He clarified that the condition the applicant proposed as part of the original application was that instead of 240,000 square feet of

commercial development, they would be limited to 182,000 square feet. In addition, instead of 357 housing units, the applicant proposed to limit the number to 350. He said all of the other conditions are project specific, and the application is not intended to be project specific. He pointed out that further on in the process there would be other opportunities to address concerns raised by the public and the staff. For example, another SEPA process would be required for the building permit, and issues such as sunlight in the buffer area would have to be considered. He concluded that the conditions the Commission should focus on at this time are the overall development limits and not conditions that could end up hindering a project and have an unintended impact on whether or not the proposal comes together.

Pat Crawford, 2326 North 155th Street, emphasized that Brian Derdowski is not representing her interests. She is being represented by Michele McFadden, and they do not agree with dropping the SEPA appeal. She suggested that the public should have an opportunity to review and comment on the agreement proposed by the applicant and the group known as Echo-Par, as well as the changes the applicant is recommending for the staff's proposed conditions. She said she is part of the Echo-Par group, yet she just received a copy of their agreement with the applicant today. She said she thought the purpose of the public hearing was to address the rezone application. She said she does not believe the City should be doing any site plan approvals at this time. She said the zoning analysis that was done appears to be complete, and the conditions related to the number of units allowed and parking spaces required should be approved. But placement and design of the development is still so up in the air that the Commission should avoid approval of conditions related to that issue.

Ms. Crawford suggested that proper classification and mapping needs to be done of the environmental features. There are watercourses and their buffers that need to be clearly identified. She said the homework should have been done on the site before they purchased the property, and at least before they went on to the second and third design phases. She stated that the site and not the desires of the developer should dictate the design when sensitive areas are involved. She said she supports the 100-foot buffer requirement and the additional 15-foot setback that has been proposed. But she suggested that this area be naturally reclaimed. Boardwalks could be installed so there would be no further compaction and erosion from traffic. This would allow many people to access the lake without causing further damage. She pointed out that the Gaston property has been left open for five years and there are 20-foot cottonwoods already growing. She said she does not believe in fancy habitat restoration, and a better option would be to rope off the 100 feet and let nature reclaim itself.

Ms. Crawford expressed her belief that the tree evaluation that took place as part of the proposal was insufficient. She said they must identify all of the trees that could be saved. She said she believes the agreement that was submitted by Mr. Derdowski and Ms. Way could end up weakening the code in a lot of places. She urged the Commission to stick behind the code. Adding the other conditions just muddies the whole issue. She said it is not the appellant's job to help with the design of a project. But they should, instead, let the applicants know what the code requirements are and where they could look for guidance.

Tim Crawford, 2326 North 155th Street, said he, his wife and his brother-in-law are also members of the group known as Echo-Par. However, they were totally shut out of the process that Mr. Derdowski

and Ms. Way garnered with the applicant. He said he appreciates Mr. O'Neil's comment that everyone needs to get together on the issue, but he finds it kind of disingenuous. The applicant has had plenty of time to work with them and their lawyer regarding this issue, but he has not done so. He said neither he, nor his wife or brother-in-law, Dave Conlow, would have signed off on the agreement. He referred to the last few words of the first paragraph of the agreement ("enables the achievement of the owners' financial objectives"). Mr. Crawford expressed his opinion that it is not the appellant's job to enable the achievement of the owners' financial objectives. The appellant's goal should be to require the applicant to adhere to the City's code requirements and to protect the environmentally sensitive areas. They have been shut out of the process because Mr. Derdowski has informed them that they cannot be dealt with. He said he takes large offense to Mr. Derdowski ignoring his constitutional right to take part in an unincorporated group. He said Mr. Derdowski and Ms. Way would soon find out that it is actionable that they have spoken for the whole group when there are no by-laws or rules for the group. It takes all seven members to concur with the conditions of the proposed agreement. Although he is a member of the group, he was just handed the agreement prior to the meeting. Therefore, he cannot comment further on the document. He said he knows of no other member that signed onto the agreement that contributed $200 to fund the group as he and his wife did. He and his wife were the major contributors to the financial effort of filing the appeal, so he takes large offense to being shut out the group's dealings.

Jim Abbott, 16218 – 6th Avenue Northwest, said he also owns business property at the north end of Echo Lake. He voiced his support for having the YMCA locate on the subject property. This would provide numerous benefits to the community. He said he believes the best way for the City to proceed with the proposal would be to require a binding site plan that deals with the issues and concerns that have been raised. He said he has done a number of projects over the years involving multiple ownerships with binding site plans and agreements to deal with the common areas, wetlands, etc.

Mr. Abbott referred to the staff's recommended conditions and suggested that the City should allow flexibility at this level. He suggested that it could be a mistake to require all of the conditions as proposed. For example, requiring that 40 percent of the residential units be affordable to low and medium-income residences could effectively prevent the project from going forward. He said he is just starting a multi-family project in Redmond, and they were only required to make 10 percent of the units affordable. He concluded that he believes the 40 percent requirement is too high. In addition, Mr. Abbott expressed his concern about the condition that would require more than 1,000 parking spaces. Since the intent of this condition is to require structured parking, Mr. Abbott suggested that rather requiring a certain number of parking spaces, they could simply require structured parking. Lastly, Mr. Abbott reminded the Commission that the City has a lot of opportunity down the road to control the development that occurs on the site. They can condition the building permit to address issues such as step backs, etc. He urged the Commission to allow for flexibility at this point.

Mike Marinella, 637 North 185th Court, said he has been a resident of Shoreline for the past four years. He said this is an exciting time for the City, and he is very excited to see that this particular property has an opportunity to be transformed from its former use into a very productive new use. He said that prior to living in Shoreline he lived in Edmonds on a street that was proposed as a possible exit point for a new development in Woodway, in which two developers proposed a 106-lot development on property that had been formerly owned by Chevron Oil. These developers met with extreme public

resistance to the project and the hearings went on for two years. Eventually, the developers had to abandon a very creative, thoughtful and sensitive proposal because they could no longer afford to continue. They sold the property to the largest homebuilder in the State of Washington and the most awful development has occurred on the property when it could have been the most gorgeous replication of what Woodway is. Now the people in Woodway are very sorry that they were so adamant in their opposition to what would have been a much-preferred project. He said he sees the same thing happening in Shoreline because it is difficult to balance the developer's needs, the City's needs and the public's needs. However, he suggested that projects such as this that involve a contract rezone are inevitably far better than the type of development that would occur if the process fails and the property is sold and developed according to its existing zone. This would prevent the Planning Commission from having any constructive input on what is eventually built. Mr. Marinella voiced his support for the proposed project because he thinks it would be far better than what they might end up with otherwise.

Brian Derdowski, 70 East Sunset Way, Issaquah, 98027, said a number of people in the community who have an environmental and neighborhood orientation have come to the conclusion that they want to have a positive outcome for this property. He said he speaks on behalf of four of the seven appellants in Echo-Par (Mamie Bollender, Richard Purn, Peter Henry and Janet Way). He emphasized that he would not speak on behalf of Tim and Patty Crawford or Dave Conlow.

Mr. Derdowski reviewed that some time ago the Echo-Park group filed a SEPA appeal to what they saw as a City Hall project, a purchase and sale agreement, a legislative land use amendment, a site-specific rezone and a contract rezone. They had some profound procedural problems with the proposal at that time. They had concerns about City Hall and conflicts of interest, and they also had substantive objections. Since the appeal was filed, two of the three primary objections have been addressed relative to the conflict of interest and other procedural objections. Therefore, they decided to focus on the substantive objections and did something that a lot of environmental groups do not do, they sat down with the applicant and established a trusting relationship with common goals. The first common goal is that they both want to have a true and balanced mixed use development. This is something that community groups around the country seek to achieve. Secondly, they did not want to have the kind of development that provides surface parking along Aurora Avenue. Instead, they wanted to have structured parking on the site. Third, they wanted to have a lot of public access; and fourth, they wanted state-of-the-art environmental protections for the magnificent lake, which is known as the headwaters of McAleer Creek. Finally, they wanted to demonstrate that a local developer and local investors could work with local people to come up with a good solution.

Mr. Derdowski said the contract they had to work with was the contract rezone, which was not easy to deal with. The original contract rezone was proposed when City Hall was being contemplated on the site, and that is what the applicants were thinking about when they put together the site plan and SEPA checklist. Over time, the project has changed into a proposal that is still a bit of a moving target. However, four of the seven appellants and the applicant have come up with a series of conditions, all of which exceed the City's existing code requirements and speak to the public interest. He distributed a copy of the agreement, which has been changed from the document that was delivered to the staff earlier in the afternoon. Commissioner McClelland inquired if Mr. Derdowski had copies of the document for members of the audience to review. Mr. Derdowski explained that he did not have copies for the

audience. However, he asked that the Commission leave the public hearing open for a few weeks to allow the public to comment on their proposed new conditions.

Mr. Derdowski said that, with respect to the wetland, the applicant has agreed to use best available science to comply with the Department of Ecology's Manual, and the latest version has only been out for a few days.

Because Mr. Derdowski had reached the end of his five-minute comment period, the Commission discussed whether or not he should be allowed to continue. Commissioner McClelland pointed out that it would take Mr. Derdowski significantly longer than five minutes to review the entire agreement, and the Commission had not even had a chance to review the document yet. Commissioner Broili said he appreciates Mr. Derdowski's concern and his desire to address the issues. However, if the Commission were to allow him to proceed, they would open the door for everyone else wanting to do the same. He suggested that the Commission stick to the rules and timelines that have been established for the hearing. Commissioner Hall noted that after the Commission has accepted all public testimony, they have the opportunity to ask clarifying questions of all those who have testified. He suggested that once the public testimony has been completed, the Commission could recess for a few minutes to read Mr. Derdowski's document and then they could ask questions for further clarification. The remainder of the Commission agreed.

Mr. Derdowski pointed out that in a rezone application review, the Commission has a duty to construct the record in a quasi-judicial manner, and they have a higher burden than normal to make sure that the record is full and balanced. If they permit an applicant to have unlimited time and they don't allow a similar consideration for the public, they could create the potential for an Appearance of Fairness problem. Chair Harris advised that the Commission would reserve the right to call Mr. Derdowski back for further questioning at the end of the public hearing.

Marlin Gabbert, 17743 – 25th Avenue Northeast, suggested that it is important that everyone work together to resolve the issues. They have an opportunity to create a good project, and the developer has indicated that he is sensitive to the needs of Shoreline. Those who have voiced opposition to the project have also indicated their willingness to work together. He said he believes that some of the conditions that have been recommended by the staff appear to be onerous. For example, requiring that at least 40 percent of the units be middle and low-income housing is unreasonable because they don't even know if this type of housing would be feasible for the area. He said it seems like the applicant is being required to place all of the parking underground or in structured parking. He suggested that there should be some surface parking for quick in and out customers of the retail space. While surface parking would not be precluded, the amount of parking that would be required for the site could preclude it.

Mr. Gabbert said he also is opposed to the condition that would require a ten-foot "step back" for each level of development. He suggested that this seems a little over zealous, particularly since it would apply to each floor and does not seem like good design sense. Also, Mr. Gabbert suggested that the Commission review the proposed condition related to tree retention. He said that in order to develop the site appropriately, they might not be possible to save any of the trees. The code allows trees to be removed and replaced with new trees so that projects can be designed as an urban setting. He

encouraged the Commission's support of the project, with the recommendations that were submitted by the proponent's attorney.

Steve Dunn, 18251 – 13th Avenue Northwest, said he is the Board Chair of the Shoreline-South County YMCA. He asked the Planning Commission to work together with the applicants and the appellants to resolve the issues of concern. He said he has been involved in the process for about two years, as have a number of other people from the YMCA who are interested in building a new facility in the north end to serve up to 9,000 children as well as adults. He said he believes the intrinsic value of locating a YMCA on the subject property would be beneficial to the City of Shoreline, and there are a lot of people trying to work together to make the development happen. The YMCA Board totally understands and supports the environmental concerns that have been raised, but there has to be some way to make the project happen. He encouraged the Commission to work quickly to move the project forward. He reported that the YMCA would be kicking off a $70 million campaign starting later in the year, and if they don't hear that the project can move forward by June 10th, they would no longer be a part of the project. He expressed that the YMCA is ready to move forward, and a feasibility study has already been completed. He said four new facilities would be built in the area in the next three or four years, and Shoreline came up as the number one area in which residents are ready to give to build a new YMCA. There are a lot of people who want the project to move forward, and he encouraged the Commission to work with the cooler heads and do their best to make the community a little bit better place.

Matthew Fairfax said he is a resident and business owner in Shoreline. In addition, he said he sits on the Board for the YMCA. He echoed a lot of the sentiments that have already been shared with the Commission. He said he supports the proposed rezone and project for a lot of reasons, but the economic impact on the community, alone, is very important. He pointed out that, from being a spectator and just getting involved with the City in the last year, it is good to know that Janet Way, Brian Derdowski and Harley O'Neil have sat down and talked about their concerns in a positive and productive manner. He referred to questions that were raised earlier about some of the changes the applicant put forward regarding the word "shall." He said that, from his perspective, the difference is that the "shalls and wills" in the agreement that was presented by Mr. Derdowski were agreed upon jointly by the appellant and the applicant. The "shalls and wills" in the City's conditions were imposed. He asked that everyone work together to come to a conclusion that is beneficial for the developer, the City and the Community.

Michele McFadden, P.O. Box 714, Wauna, Washington, 98395, said she is the attorney for Tim and Patty Crawford. She said the issues the Crawfords have are actually the same as those expressed by the staff and Commission. The proposal has been changed and the conditions have not been adequately modified to reflect the changes. The question before the Commission is how they can procedurally do something with the rezone application when the site plan is not even the same as what they started with. They also need to recognize those conditions that should move forward and those that should not. She suggested that the burden is on both the staff and the applicant to identify the scope of the current proposal and what issues could be dealt with later.

Ms. McFadden specifically referred to the conditions that Mr. Derdowski negotiated with the applicant. She said that because the Commission and the citizens did not receive the document until they arrived at the meeting, as a matter of public process, the Commission should allow time for people to react. There are two different versions of the document and people have expressed two different opinions. Some feel it is less restrictive than the City's code, and some think it is more restrictive. She suggested that it would be worthwhile for the staff to evaluate the conditions identified in the agreement and identify the difference between what is being proposed and what the code would require. There are a lot of design issues included in the agreement that are probably not sufficiently resolved at this point. The Commission must determine whether or not these issues need to be resolved before they can make a decision or if there is another process in which the public could be involved in the final design of the proposal. She said no one is saying that mixed use is not a better approach than piece-by-piece development. She said she would like to provide future comments on behalf of the Crawfords regarding the conditions that have been proposed by Mr. Derdowski and the applicant, and she asked how the Commission plans to procedurally deal with the public's response to the document. She suggested that they at least allow a window of opportunity for written comments on the changes.

Because no one else in the audience expressed a desire to address the Commission, the public comment portion of the hearing was adjourned for the evening.

Commission Discussion Regarding the Rules and Procedures for the Quasi-Judicial Hearing

Commissioner McClelland suggested that it would be appropriate for the Commission to deal with the procedural issues first so that everyone present would have a clear understanding of the process. She agreed with Ms. McFadden that the Commission should come up with a plan that would allow the public to respond to the document that was presented by Mr. Derdowski. She suggested that the Commissioners could read through the document before the hearing continues on May 5th and be prepared to talk about them. Mr. Derdowski could say more about the document tomorrow night, as well. But this would not provide an opportunity for the general public to comment on the document.

Chair Harris clarified that those who already had an opportunity to address the Commission on this subject would not be allowed to speak on the issue again at the May 5th hearing. Mr. Stewart added that the SEPA appeal hearing would be limited to those who have standing in the SEPA appeal. Vice Chair Piro said it appears that members of the public who just received the documents provided by Mr. Derdowski might want to offer some written comments. He agreed with Commissioner McClelland that the Commission should address the appropriateness of this and the time period for receiving them.

Commissioner Hall said his understanding is that following public testimony, the Commission has the ability to recommend approval of the contract rezone proposal with the conditions recommended by staff, recommend denial of the contract rezone proposal, or modify the conditions thereof. However, neither the applicant nor the public has the ability to impose additional conditions. Any changes in the conditions would be the result of the Commission's deliberations based on input from the public. Mr. Stewart said Commissioner Hall was correct. Commissioner Hall said it is important for the Commission to understand that there is no requirement for public notice or hearing related to the conditions that have been presented by both the applicant and Mr. Derdowski. Mr. Stewart agreed. He

said the purpose of the public hearing is to allow members of the public to voice their opposition or support of the contract rezone and/or suggest substitutions for language in the conditions of the contract rezone. Once the Commission receives the comments, they can begin their deliberations and make a recommendation to the City Council who will be the final decision maker. Mr. Stewart emphasized that the Commission should not deal with the conditions that were submitted by the public until they begin their deliberations. He reminded the Commission that one mechanism they have used in the past is to close the verbal hearing but leave the written comment period open for a time. The Commission could consider the written comments when they begin their deliberations, which are currently not scheduled to occur until May 19th.

Commissioner Phisuthikul clarified that the agreement between the two parties that was presented by Mr. Derdowski was not be included with the staff recommendation at this point. However, a Commissioner could choose to add these conditions during the deliberation period. Mr. Stewart agreed that during deliberations the Commission could add or delete whatever conditions they deem appropriate for their recommendation to the City Council. The City Council would then have the opportunity to add or delete conditions. Then if the applicant chooses to agree with the rezone conditions set forth by the City Council, he could sign the agreement and the contract rezone would go into effect. If the applicant chooses not to sign the rezone agreement then the action would be void.

Commissioner Broili referred to the agreement between parties that was submitted by Mr. Derdowski and asked how these conditions would align with the staff's recommendation. He questioned if staff would provide a new recommendation to the Commission based on the new information. Mr. Stewart said the staff has not reviewed the document that was submitted by Mr. Derdowski during the public hearing. However, they did review the previous draft of the document that was provided to them during the afternoon. He advised that staff provided a memorandum that raises a couple of issues with the proposed conditions, but staff reached the conclusion that they are generally supportive of the conditions that have been outlined by the appellants and the applicant. While they are concerned that some of them might be vague and difficult to enforce, generally, they are consistent with the staff's recommendation.

Vice Chair Piro reminded the Commission that not only must they consider the recommendation that was submitted by Mr. Derdowski, but they also have to consider the new conditions that were presented by the applicant's attorney. The staff has not had a chance to review these proposed changes, either. Mr. Stewart agreed that two sets of conditions were presented to the Commission: a new set by Mr. Derdowski and a new set by the applicant. Staff has not reviewed either document.

Vice Chair Piro asked if staff could analyze the proposed conditions and present a revised set of conditions to the Commission. Mr. Stewart said that if the changes to the development proposal or the conditions of the proposal would exceed those that were advertised or noticed, the City would have to readvertise, notice and reopen SEPA. If the conditions are within the project that was noticed and advertised, the Commission could move forward without a procedural defect.

Commissioner McClelland asked if it would be possible for the Commission to set a deadline for the public to provide written comments regarding the new documents that were submitted. Staff could also provide written clarification regarding the proposals. All of the written comments could be provided to

the Commissioners for review prior to the May 19th hearing. Mr. Stewart said staff tries to get the packets out to the Commissioners and the public a week in advance of a Commission meeting.

Commissioner Hall recalled that the Commission has been questioned twice by members of the audience regarding their procedures. He asked staff to offer an opinion about whether quasi-judicial rules and procedures would allow the Planning Commissioners to speak with the staff about the proposal. He also asked if limiting the time for public testimony would be consistent with the rules and procedures for a quasi-judicial proceeding. Mr. Stewart said he would ask the City Attorney to respond to both of these questions. He noted that Flannery Collins, the Assistant City Attorney, would attend the May 5th public hearing.

Chair Harris explained that the public hearing would be held open until May 5th. Once the public hearing is closed on May 5th, the Commission would make a decision about whether or not they would hold the public comment period open for an additional period of time. Commissioner Hall suggested that extending the public hearing could impact the SEPA hearing. Mr. Stewart said staff also discussed with Mr. Derdowski the possibility that Echo-Par would terminate the SEPA appeal between now and the May 5th SEPA appeal hearing. If this occurs, the Hearing Examiner hearing would be cancelled and the Planning Commission would only hold a continued hearing on the change of zone. He suggested that the Commission continue the hearing on May 5th and accept testimony from anyone who has not already testified. Written public testimony could be submitted prior to the May 5th hearing. Another option would be for the Commission to extend the written comment period now so that the public would know that they have additional time.

COMMISSIONER PHISUTHIKUL MOVED THAT THE PUBLIC HEARING BE EXTENDED FOR WRITTEN COMMENTS ONLY UNTIL MAY 10, 2005 AT 5:00 P.M. VICE CHAIR PIRO SECONDED THE MOTION.

Commissioner Hall clarified that the motion does not imply any extension of the public hearing for verbal testimony beyond May 5th, although the Commission might make that decision after the hearing on May 5th. Commissioner Kuboi asked if someone who has already been allowed to offer verbal testimony would also be allowed to provide written testimony. Chair Harris answered affirmatively.

THE MOTION CARRIED UNANIMOUSLY.

Commissioner McClelland asked if the staff and applicant would provide their presentation again at the public hearing on May 5th. Mr. Stewart pointed out that the hearing was advertised for both nights. Therefore, staff feels it would be fair to allow anyone to come on either night and give testimony, but they had not planned on making a presentation on May 5th. Commissioner Hall suggested that copies of the staff report and PowerPoint presentation should be made available to the public prior to the May 5th meeting.

Commission Questions of the Applicant and Public

Commissioner Kuboi recalled that Mr. Derdowski made reference to a number of goals that he and the project proponent had agreed were important. One was related to public access. However, he said that in his cursory review of the document Mr. Derdowski submitted, there was nothing that would secure this benefit in any meaningful way. In response, Mr. Derdowski referred to Condition 5, which states that the owners would construct a boardwalk with public access through the buffer area. In addition, Condition 7 would require the owners to provide handicap assessable public access from the Interurban Trail to the project site. Lastly, he said Condition 3 indicates that the owners intend to apply for a permit to construct a publicly accessible beach and dock. Mr. Derdowski summarized that the owner has committed to allow public access on the boardwalk through the buffer, allow public access to a beach and dock if it is permitted, and provide public access from the Interurban Trail to the project site.

Commissioner Kuboi asked if the Echo-Par group and the applicant have come up with a dispute resolution process should they come to a disagreement on how any of the conditions are executed. Mr. Derdowski said he recently spoke with the City Attorney about how an agreement between the applicant and the appellant should be constructed. The City Attorney advised that the best way to do this would be to put it in the form of conditions that would be added to the contract rezone. This would be an alternative to the applicant and appellant signing some sort of real estate contract, which could get very cumbersome. He referred to the third paragraph of the agreement, which states that certain conditions would be added subject to approval of the City of Shoreline. The appellants who signed the agreement and the owners agreed to petition and work together to get the conditions approved. Once the conditions become part of the contract rezone, the applicant would have a complete contract and could decide whether to sign it or not. If he signs the contract, all of the contract conditions would be enforceable and applied to subsequent building permits, etc. If the contract rezone were approved, the owners would have to apply for a building permit, which would require a SEPA review. Citizens would be able to comment about whether or not the conditions were being applied correctly.

Commissioner Broili commented that he does not see how Conditions 3, 5 and 7, as pointed out by Mr. Derdowski, would assure linkage between Aurora Avenue North and the Interurban Trail. Mr. Derdowski agreed that the proposed agreement would not address this linkage. The linkage would probably be along the road that connects Aurora Avenue to the Interurban Trail, and presumably the access would be provided in this location. In addition, as they worked with the applicant, they contacted various experts in the field to provide ideas. One idea was the incredible concept of a view corridor from Aurora Avenue to the lake. One of the advantages of this feature would be that a person could cross the street from the park and ride, walk along Aurora Avenue northbound for a short distance on a sidewalk, walk by a café with some outdoor seating, and then start walking on a sidewalk with a view corridor right down to the lake on public right-of-way. At that point, they could get on the boardwalk and walk to the Interurban Trail on a handicap assessable trail. Another connection could be provided on a public right-of-way (North 192nd). He concluded by stating that a lot of open-minded people are looking for options. But tonight the Commission is considering the contract rezone, and the Commission's challenge is to come up with a package of conditions that are tight enough to protect the public interest and broad enough to include enough flexibility so the applicant can construct a viable project.

Again, Commissioner Broili asked if there would be a connection between the Interurban Trail and Aurora Avenue North. Mr. Derdowski said his understanding of Commissioner Broili's question was whether or not there would be a connection between the Interurban Trail and Aurora Avenue North via Echo Lake. He said the latest drawings the applicant is considering would have a sidewalk going along the retail space. People would be able to walk down to the sidewalk to the public square and then along the boardwalk, through the buffer area, to the Interurban Trail access.

Commissioner Hall said asked if it would be within the City's purview to impose conditions in a contract rezone that may appear to be project specific conditions such as bulk regulations, upper floor "step backs", etc. Mr. Stewart answered affirmatively.

Commissioner McClelland questioned if the conditions proposed by the staff would be independent of the City being a participant in the project. Mr. Stewart answered that the project that was submitted to the City for review contained a proposal to use the building on the northwest corner as either a City Hall or other commercial use, including office. That is exactly how the application has been processed from the beginning. While the City Hall project has been withdrawn, the project that was proposed remains, and that is what the staff has reviewed and presented to the Commission for consideration. If the project has changed significantly because one of the perspective partners or buyers has withdrawn, making the project impossible, it would be appropriate to reconsider whether this is the project the Commission should be reviewing. But the staff cannot unilaterally change the project proposal without giving adequate notice, re-scoping and looking at the potential impacts of the changes.

Commissioner Hall clarified that if it is the staff's position that the conditions they received in the staff report are not out of date because of changes, it might be moot to ask them to work with the applicant team to come up with a broader and more flexible set of conditions. Mr. Stewart explained that the staff initiated the set of conditions originally. The applicant responded to those conditions with a complete set of comments that were included in the Staff Report as Attachment J. Staff agrees that many of the applicant's recommendations have a great deal of merit and the Commission should carefully consider the amendments proposed in Attachment J. They cover issues that were raised during the public hearing about parking requirements, affordable housing, etc. Now there is a third proposal to significantly change some of the conditions that the applicant had previously agreed to. In addition, a set of proposed conditions were set forth in the agreement with Echo-Par. He summarized that there are currently four sets of conditions: the staff's original conditions, the original comments from the applicant, the applicant's second set of comments, and then the agreement between the applicant and Echo-Par. He suggested that it would be appropriate for the staff to attempt to put these recommended conditions into some semblance of order. Commissioner Hall said he would welcome this effort by the staff because he feels the language proposed by the applicant's attorney would result in non-conditioned conditions. He said he feels there is some room to develop some conditions that may be more appropriate for a project that is in flux, and the staff's efforts in this regard would make the Commission's job much easier.

Commissioner Kuboi referred to the staff's opinion of the geotechnical report and said it appears from the staff write up that there wasn't really any objection taken to this report. Mr. Stewart pointed out that at the project level, a much more detailed soil analysis would be required as part of the structural review. Ms. Lehmberg agreed that at the project level the geotechnical reports would be analyzed by the City's

development review team and a soils analysis and structural review would be done at that time. Mr. Stewart said a preliminary geotechnical review was completed for the site, and no insurmountable obstacles were identified for development of the site as proposed. Commissioner Kuboi said he is specifically interested in the extent to which the existing ground water flow would be interrupted by any sort of excavated structured parking as proposed. Commissioner Hall said this issue is addressed in Attachment E of the packet.

Commissioner McClelland asked for further information about Ms. Crawford's comments about letting the buffer area restore itself naturally. She asked if Ms. Crawford is suggesting that this should happen on the entire 115 feet of buffer area or just a portion of the buffer area. If the Commission were to recommend that the buffer area restore itself naturally, she questioned if the species of birds that are found on the site would stay around. Ms. Crawford suggested that a natural restoration process would probably encourage the habitat to stay around more. If the grass is not mowed, it would grow up tall enough that the mother mallards could use the vegetation for screening. Commissioner McClelland asked Ms. Crawford if a public boardwalk would be in conflict with a natural restoration program. Ms. Crawford answered that it would not. She said a boardwalk would be the best way to provide access through the buffer area. There would be no compaction or erosion of the soil, yet the public would be able to access a deck right up to the lake.

Commissioner Hall recalled that the applicant and others expressed concern about some of the conditions as they currently appear in the Staff Report. He asked the applicant if he would support approval of the contract rezone as currently conditioned in the staff recommendations. Mr. O'Neil answered that he would not. He said the project would no longer be feasible, especially considering the significant cost associated with providing parking structures. He questioned how a condominium developer could provide affordable housing when he has to provide underground parking or parking structures. Also, he questioned how he would be able to attract senior citizens to the project if 40 percent of the clients have to qualify for low to medium-income housing.

Mr. O'Neil said the property owners had hoped to be done with the contract rezone process by the end of April, and they received a June 1st deadline to complete the purchase and sale agreement with the YMCA. If they are not able to meet this deadline, the YMCA would not be coming to Shoreline for at least another four years. They have four other communities that are ready to go, and plans have been developed. He said they have significant concerns about the conditions proposed by the staff, which they did not receive until the day after the appeal period had expired for response. He said he wrote a letter of response (Attachment J) stating that the conditions proposed by staff would be deal breakers.

Commissioner Hall asked if the YMCA facility would be a permitted use in the R-48 zone. Mr. Stewart said a YMCA facility would be classified as a sports and social club and would be allowed as a conditional use in all residential zones of the City, including R-48. It would be allowed as a permitted use in a regional business zone. If the YMCA were to locate on a site that had both regional business and R-48 zoning, the entire use could be permitted through a conditional use permit. Commissioner Hall summarized that it would be possible to locate the YMCA on the subject property with the current zoning designation, but it would require an additional permit. Mr. Stewart said the conditional use

permit would require public notice, a comment period and an administrative decision that would be appealable to the Hearing Examiner.

Commissioner Hall said two types of suggestions about the various sets of conditions have been presented to the Commission. One suggestion the applicant's attorney brought forward was to modify the language to be more permissive rather than mandatory. Other comments have been offered that while the step back concept is acceptable, requiring it to occur on every story would be excessive. Or perhaps structured parking is okay, but requiring it for all 1,000 spaces might be excessive. It was suggested that perhaps it would be appropriate to require some low to moderate-income housing, but 40 percent would be unattainable. Commissioner Hall asked if there are ways to put in mandatory conditions that might have smaller numbers that would provide some certainty to the public that has testified, while at the same time preserve the applicant's ability to complete a master planned mixed-use development. Mr. O'Neil said he understands that the contract rezone option is a new concept for the City. But they chose to do a contract rezone at the recommendation of their architects, and it was also a goal of the purchase and sale agreement. He said he does not know of any other rezones in the City that have mandatory requirements placed upon them. He said it seems like the City is trying to design the building, tell them where to the place their parking and how much parking to put in. While he can see some positive aspects related to the concept of a contract rezone, it appears the proposed conditions were orchestrated to actually kill the project.

If they were to end up with some sort of condition for the parking requirement that was mutually agreed upon by the City and the attorney as appropriate for the project to go forward, Vice Chair Piro asked if that would be acceptable to the applicant. Mr. O'Neil said that he expected the staff to come to him with the concerns that have been brought up by citizens and then they could work together to address the issues. But this type of communication and cooperation did not occur.

Vice Chair Piro asked if the applicant would be willing to work with the City to agree upon some percentage for affordable housing that would be feasible for both the City and the applicant. Mr. O'Neil said it would be a detriment to any developer if the City were to require that a specific amount of the housing be affordable to low and medium-income individuals. Developers would turn away from the project and go elsewhere where there are no restrictions. Vice Chair Piro said there are jurisdictions in the region that have formulaic percentages for the amount of affordable housing that must be set aside with each project. He asked if the applicant would accept a condition of this type. Mr. O'Neil said he would have to speak with some of the members of their development team regarding whether or not this type of requirement would make the development unfeasible.

Vice Chair Piro asked if the applicant would be amenable to working with the City to come up with some type of condition that would allow light access to the buffer area and the lake. Mr. O'Neil said their goal is to provide as much open space as possible. They are not trying to build something that would cluster buildings around the waterfront. Their intent is to open a view corridor and get light into the buffer space. But he doesn't understand the City staff's recommendation to add further conditions related to the building design.

Based on his discussions with the applicant, Commissioner Kuboi asked if the party Mr. Derdowski is representing is in agreement with the geotechnical report as it relates to impact on ground water. Mr. Derdowski said they have not addressed this issue. Commissioner Kuboi asked if Mr. Derdowski's group had any discussions about traffic impacts. Mr. Derdowski said they did not discuss this issue, either.

Commissioner Hall said he was unable to find the tree evaluation report that was referenced earlier in the hearing. Ms. Lehmberg said this report is in the application file, but it was not included as part of the Staff Report. Commissioner Hall asked that staff provide the Commission with copies of the report before the May 5th public hearing.

Commissioner Kuboi asked that staff provide feedback from the City Attorney regarding the difference between the terms "shall" and "will."

COMMISSIONER HALL MOVED THAT THE COMMISSION CONTINUE THE PUBLIC HEARING FOR FILE NUMBER 201372 TO MAY 5, 2005 AT 7:00 P.M. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

5. ADJOURNMENT

The meeting was adjourned at 9:50 p.m.

_____	_____
David Harris	Jessica Simulcik
Chair, Planning Commission	Clerk, Planning Commission

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These Minutes Subject to
June 2nd Approval

CITY OF SHORELINE

SUMMARY MINUTES OF
SHORELINE PLANNING COMMISSION/HEARING EXAMINER
JOINT MEETING

May 5, 2005 Shoreline Conference Center
7:00 P.M. Board Room

PRESENT
Chair Harris
Vice Chair Piro
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Ian Sievers, City Attorney
Flannery Collins, Assistant City Attorney
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT
Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

Chair Harris called the meeting to order at 7:03 p.m.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners Kuboi, Hall, Broili, McClelland and Phisuthikul. Commissioner MacCully and Sands were excused.

3. CONTINUED TYPE C QUASI-JUDICIAL PUBLIC HEARING ON THE ECHO LAKE CONTRACT REZONE APPLICATION (FILE NUMBER 201372)

Chair Harris reviewed the rules and procedures for the continued public hearing. He explained that this is a joint hearing with the Planning Commission and the Hearing Examiner. The purpose of the hearing

is to accept testimony on the Planning Commission's review of the rezone on property located at the south end of Echo Lake and the Hearing Examiner's review of the SEPA appeal by the Echo-Par Group. He emphasized that during the first portion of the meeting the public may comment to the Planning Commission regarding the rezone application, but only if they did not provide comments at the May 4th hearing. Once the testimony regarding the rezone application is complete, the Hearing Examiner would conduct the remaining part of the hearing for the SEPA appeal. He noted that testimony regarding the SEPA appeal would be limited to the appellants.

Chair Harris reminded the Commissioners of the Appearance of Fairness Law, which requires Commissioners to disclose any communications they may have received about the subject of the hearing outside the hearing.

Chair Harris opened the public hearing and asked the Commissioners to disclose any ex-parte communications they may have received concerning the subject of the hearing. Commissioner Hall disclosed that three or four weeks ago, prior to the Commission's deliberation on the site-specific Comprehensive Plan amendment for the subject property, he had dinner at Spiro's. He ended up being seated by the owner, Evan Volts, and he asked him about the upcoming remodel of Fred Meyer and the Aurora Corridor Project and the impact it would have to his business. They also discussed the Gateway Project, and at that point Mr. Volts informed him that he was a partner with Harley O'Neil on the Echo Lake proposal. Commissioner Hall said at that point he indicated Echo Lake was the subject of a pending quasi-judicial hearing and he could not discuss the issue any further. No substantive discussion regarding the Echo Lake application took place. No members of the audience raised Appearance of Fairness concerns.

Public Testimony or Comment

Don Riegelhuth, 19271 Stone Avenue North, referred to Condition 7 of the agreement between the applicant and members of the Echo-Par Group (Exhibit 1 from the May 4, 2005 meeting). This condition would require the owners of the subject property to provide handicap accessible public access from the Interurban Trail to the project site. It further states that an existing asphalt road that currently connects the project site to the trail may be modified to satisfy the requirement. He questioned if this would be the road that goes in front of his house (Stone Avenue), or would it be the portion of road that exists now in the trailer court? Chair Harris said this requirement was presented at the previous night's public hearing as a proposal and is not a part of the conditions that have been proposed by the staff. The Commission has not discussed this proposed requirement. Mr. Riegelhuth said they would like the proposal to include access from the Interurban Trail to the property where the existing trailer park is located. If the access from the Interurban Trail were to intersect with their property, it would eliminate the parking space that is available in front of their home. He pointed out that he currently pays Seattle City Light annually for the use of this road. He said his neighbors are also concerned about this same thing.

Dave Conlow, 2326 North 155th Street, said he does not believe the applicant provided proper information regarding the proposal. He emphasized that Echo Lake is not a wetland because it has a stream running through it. In addition, the streams and storm drains that run through the subject

property have not been properly mapped. The geotechnical report was inadequate because only ten-foot test holes were dug. Given the proximity of the lake and the applicant's proposal to provide underground parking, it is important to do more detailed geotechnical studies. He questioned if there was any evaluation done to determine what trees could be saved or would they all be removed and replaced. He said he is part of the Echo-Par Group, but he does not concur with the agreement they reached with the applicant. He said he felt uncomfortable when he heard that Janet Way had a $1,000 check from the landowner. He said he is not involved in the project appeal for the money. He just wants to protect the lake.

Peter Henry, 15224 – 5th Avenue Northeast, said he is also one of the appellants. He said he reluctantly supports Mr. Derdowski and Ms. Way in their efforts to reach an agreement with the applicant so that the appeal could be dropped. He feels the agreement is the best they can do. He said his chief concern at this time is to protect the water quality of Echo Lake and the environmental features that surround it. He said his understanding is that whether there is a contract rezone or not, the developer and the City would still be bound by SEPA, the Growth Management Act, the Critical Areas Ordinance and other City, State and Federal requirements.

Carol Murrin, Echo Cove Condominiums, 19414 Aurora Avenue North, voiced her concern about the number of condominiums that are being proposed for the subject property. She asked how many units are currently located on the trailer court property. Mr. Stewart answered that there are 110 units on this site now. Ms. Murrin said she would like to see fewer units placed on the subject property. Right now the applicant is proposing to develop 55 units per acre, and this would have a significant impact to the lake if people are allowed access. She asked that the Commission consider the impact to the lake if it is used for a recreational facility for those living in the new units.

Commission Questions of the Applicant and Public

Commissioner Hall asked Mr. Riegelhuth if he is opposed to the access road that is being proposed by the applicant or the entire proposal. Mr. Riegelhuth clarified that he does not have a problem with the proposal, but he does not want the handicap accessible public access from the Interurban Trail to go onto his road. He said it would work just as well to move this access another block down into the area where the trailer court is currently located.

Mr. Stewart said staff recommends the Commission close verbal testimony now, but leave the written comment period open until May 19th when the Commission reconvenes for consideration of the matter. Sometime over the next two or three days, staff could put together a revised and consolidated list of conditions as requested by the Commission. It is staff's intent to make the proposed list not only available to the Commission, but also to the community via the City's website. Anyone who has issues or comments on the proposed list could submit them in writing to the Commission before they begin their deliberations.

Commissioner Phisuthikul recalled that at the May 4th meeting, the Commission voted to leave the written testimony period open through May 10th. Mr. Stewart agreed, but he said staff is suggesting that the Commission add an additional nine days to the written comment period.

Commissioner Hall recalled that the reason the Commission agreed to cut the written comment period off on May 10th was to allow staff an opportunity to compile the comments and get them out to the Commission in their next meeting packet. If staff is comfortable with the idea of allowing written comments until the Commission's next meeting, he would support their recommendation to extend the written comment period to May 19th.

Commissioner Kuboi said he would support the staff's recommendation to extend the written comment period to May 19th. However, he would like time to be set aside on the May 19th agenda to allow the Commission to review the new written comments they receive. Mr. Stewart agreed. He said staff intends to include in the Commission's packet any comments they receive until the packet goes out. Then they would collect and assemble the additional comments they receive after the packets have been sent out and present them to the Commission at the May 19th hearing.

Commissioner McClelland suggested that perhaps it would be possible to cut off the written comment period a bit earlier so that Commissioners would have an opportunity to review the comments before they arrive at the May 19th meeting. Mr. Stewart pointed out that the staff would not release the revised list of conditions to the Commission and the public until the packets are sent out on May 12th, and the public should have an opportunity to offer written comments regarding the new list of conditions prior to the Commission deliberations. Time could be set aside on the May 19th agenda to allow the Commission to review new evidence and information. He felt this would be the fairest process.

Commissioner Broili said he would be in favor of ending the written comment period on May 12th. He said he does not want to wait until the last minute to digest all of the additional comments that come in after the Commissioners receives their packets for the May 19th meeting. Mr. Stewart reminded the Commission of their request that staff review the four alternative condition lists. If staff were to propose some new language that was not in any of the previous lists, it would be beneficial to the Commission to allow public response regarding the new language before they begin their deliberations. These comments would then be part of the record and available to the City Council when they deliberate on the Commission's recommendation.

Commissioner Kuboi asked if written comments would be posted on the City's website as they come in. Ms. Simulcik said she could do this. Commissioner Kuboi expressed his concern that if written comments are posted for the public to review, then the Commission could potentially get into a situation where they will have comments, rebuttal, comments, rebuttal, etc. It concerns him that new comments and materials could be submitted until the very end. Even if they have a substantial time period on the meeting agenda to review the new material, it still might not be sufficient. Mr. Stewart said that as soon as the comments are submitted they become part of the public record and are available to anyone. Typically, they do not post information on the website until the Commission has received it first.

Commissioner Hall pointed out that there are already four sets of conditions before the Commission for consideration and he appreciates staff taking the time to sort through them and figure out a set of conditions they believe would balance the interests. But ultimately, the conditions are something the Commission will either recommend to the City Council or not. If people have the opportunity to

comment on all of the conditions that have been proposed to date, wordsmithing changes should not damage the public process. He agreed with Commissioners Broili and Kuboi that receiving information at the very last minute has been very problematic for the Commissioners in the past. The applicant has a land use action pending, and he has a right to a decision. If the Commission receives new information on May 19th, this would threaten their ability to render a decision that evening. He suggested that the written comment period be cut off sooner. The public could be asked to look at the full range of conditions that have been placed before the Commission and provide their comments between now and May 10th.

Mr. Stewart advised that Ms. Spencer has suggested that if the Commission were to establish a cut off date for written comments of May 18th at noon, staff could compile, assemble and hand deliver the comments to each Commissioner on the afternoon of May 18th.

Commissioner McClelland pointed out that there have already been two instances in the last several meeting where materials have been presented to the Commission at the very end, and people who have financial and vested interest in what's going on do not have an opportunity to review and comment on the new materials. This creates an uncomfortable situation. If the Commission could receive the written comments by May 18th, the public must also be allowed to pick up a copy of the comments on May 18th. Mr. Stewart agreed. Rather than posting public comments on the website as they are received, Commissioner McClelland suggested that staff wait until May 18th to post all of the public comments at the same time.

COMMISSIONER MCCLELLAND MOVED THAT THE WRITTEN COMMENT PERIOD BE EXTENDED TO NOON ON MAY 18, 2005. VICE CHAIR PIRO SECONDED THE MOTION.

Commissioner Hall encouraged members of the public to submit their written comments as soon as possible so the Commission would have ample time to consider them.

THE MOTION CARRIED UNANIMOUSLY.

4. <u>PUBLIC HEARING ON SEPA APPEAL FOR FILE NUMBER 201372 REGARDING THE ECHO LAKE REZONE</u>

The Planning Commission portion of the joint hearing with the Hearing Examiner ended at 7:30 p.m. and the Echo Lake SEPA MDNS Appeal Hearing went from 7:30 p.m. to 8:50 p.m. Please see Hearing Examiner Minutes for SEPA Hearing details.

The Public Hearing for File No. 201372 was closed at 8:50 p.m. The Planning Commission took a recess and then reconvened at 9:05 p.m.

COMMISSIONER HALL MOVED TO RECONSIDER THE PLANNING COMMISSION'S RECOMMENDATION TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION OF THE SOUTHERN PORTION OF THE SUBJECT PARCEL FROM HIGH

DENSITY RESIDENTIAL TO MIXED USE. COMMISSIONER MCCLELLAND SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Commissioner Hall explained that when the Commission acted on the Comprehensive Plan site-specific land use designation change proposal, he didn't clearly separate in his mind what that would mean from what the rezone might mean. He said he has given further thought about the housing policies, the density, and all of the site plans they were shown throughout the process. While they were told that the Comprehensive Plan is separate from the rezone application and SEPA appeal, the Commission always had the notion that there would be up to 180,000 square feet of commercial space and up to 350 housing units. Upon further reflection, he said it occurred to him that absent a contract rezone, which is by no means a requirement or a condition on the Comprehensive Plan land use change, the change in the land use designation from High Density Residential to Mixed Use would require that any future decisions such as rezones, etc. would have to be reviewed by the Commission or the City Council to make sure they are consistent with the Comprehensive Plan. If the Comprehensive Plan land use designation were Mixed Use, there would be no guarantee that the property owner would develop any residential units on the subject property at all. There would be 101 low to moderate-income residential units displaced by the proposal, and the Growth Management Act goals require the City to provide housing opportunities to meet their established growth targets. He said the prospect of losing 6.71 acres of High Density Residential land and allowing it to possibly be developed as 100 percent commercial or industrial in the future could make it very difficult for the City to achieve the population densities and growth they are trying to accomplish through their Comprehensive Plan. He reminded the Commission how difficult it is to up zone property from Low Density Residential to High Density Residential.

Chair Harris reminded the Commission that another goal of the Growth Management Act is to create jobs for the community. Commissioner Hall agreed. Commissioner Kuboi explained that the use of the property would be governed by the zoning regulations. If the contract rezone were not approved, the existing High Density Residential zoning designation would remain intact irrespective of whether the land use designation was Mixed Use or not. Commissioner Kuboi said his understanding is that the City would still have a zoning designation that would be protective of housing as the use for the eastern portion of the site should the contract rezone not go through. Mr. Stewart agreed. Commissioner Kuboi said he does not share Commissioner Hall's concern with regards to the land use designation change from High Density Residential to Mixed Use.

Vice Chair Piro said that after the last hearing on May 4th, he considered options for some type of agreement on the percentage of low-income units that should be considered for the site. Mr. Stewart cautioned the Commission not to deliberate the contract rezone at this time. The scope of the debate should be narrowly focused on the Comprehensive Plan amendment and the proposal to change the High Density land use designation to Mixed Use.

Vice Chair Piro asked if there are provisions in the Growth Management Act or under State law that would require that like housing be constructed if low-income housing is removed. Mr. Stewart said staff would research this information.

Commissioner Phisuthikul said that he, too, was concerned at the beginning of the Commission's deliberations to change the Comprehensive Plan designation for the subject property from High Density to Mixed Use because it would be a very broad land use designation. He said he found it difficult to support the land use change because a Mixed Use land use designation could potentially allow uses such as industrial to occur on the site. However, because any zoning change would require Planning Commission review and City Council approval, it is unlikely that the zoning on the subject property would ever be changed to allow industrial development. Because of the City's process that allows for checks and balances, he felt comfortable supporting the Comprehensive Plan land use change as proposed.

Commissioner McClelland clarified that if the Comprehensive Plan amendment is approved as proposed but the contract rezone and the proposed development does not occur, the existing zoning on the property and the new Comprehensive Plan land use designation would be inconsistent. Mr. Stewart answered that the current R-48 zoning designation would be consistent with the Mixed Use land use designation. Commissioner McClelland pointed out that once the Comprehensive Plan land use designation is changed to Mixed Use, there would be no guarantee that a different kind of rezone would not be requested in the future. Mr. Stewart referred to the list of zones that are compatible with the Mixed Use designation, which was handed out at the time the Commission was considering the land use proposal. This list of uses included R-48 as well as regional business, and these are the two zones that are currently on the site now. If the Mixed Use Comprehensive Plan amendment were adopted, the current zoning would be consistent with the Comprehensive Plan. If the land use designation were changed to Mixed Use, a rezone application could be submitted for any number of zoning districts. However, the Planning Commission's responsibility would be to review the proposal in light of the policies in the Comprehensive Plan and the criteria that has been established for adopting a zoning change. Following a public hearing, the Commission would be asked to deliberate and make a recommendation as to whether a proposed zoning change would be appropriate.

Commissioner McClelland recalled that when the Commission voted to recommend approval of the Comprehensive Plan amendment, she was reluctant to offer her support. She said that what they started out with was a complete application (a Comprehensive Plan amendment, a contract rezone, and a project). The proposed project originally included the possibility of the City owning some of the property. This property would be within the public's domain, and the City would have the ability to govern what goes on in the lake or the wetland. She said she favored moving the whole proposal through as a package. Once the SEPA determination was appealed and the process was chopped up into parts, they ended up with a situation where they don't know who will own the property in the end. She said she is so uneasy about the whole situation that she might be tempted to vote for the motion on the table if there were a way to reconstruct the package.

Chair Harris noted that the City doesn't own the land, and there are no plans for the City to purchase the land.

Vice Chair Piro suggested that, rather than reconsidering the Comprehensive Plan land use change, perhaps the housing issues that have been raised by Commissioner Hall could be addressed as the Commission goes through the process of revising the contract rezone conditions.

COMMISSIONER HALL WITHDREW HIS MOTION TO RECONSIDER THE COMMISSION'S RECOMMENDATION ON THE COMPREHENSIVE PLAN LAND USE AMENDMENT, WITH THE UNDERSTANDING THAT THE ISSUES IN THE COMPREHENSIVE PLAN COULD BE ADEQUATELY CONSIDERED AT THE TIME OF REZONE. THE FACT THAT THE LAND WOULD BE REDESIGNATED AS MIXED USE WOULD NOT MEAN THE COMMISSION COULD NOT THINK ABOUT ALL OF THE POLICIES IN THE COMPREHENSIVE PLAN WHEN A REZONE APPLICATION IS SUBMITTED.

Commissioner Broili stated that he believes the Commission made a decision that, assuming the proposed plan goes forward, would give the City a good final product that they can be proud of. It would meet the residential requirements they are looking for in a mixed-use area. He said he would be very reluctant to change direction midstream because it would only "muddy the water" and the perspective developers could just walk away from the project altogether. He said this type of situation would be a major concern to him.

COMMISSIONER MCCLELLAND WITHDREW HER SECOND OF THE MOTION.

Commissioner Kuboi suggested that it is probably a reasonable statement to say that people of very low incomes occupy the trailer park. He asked if this would be tantamount to saying that it is low-income housing. By losing those units, he asked if the City would be deficit in with respect to low-income housing. Mr. Stewart said there are some policy implications regarding affordable housing and SEPA implications, and there are very clear definitions in the development code for moderate income, low income, very low-income and extremely low-income housing based upon the percentage of median household income that is spent for rent. However, the City staff does not have access to information that would allow them to specifically identify the income level of any housing unit in Shoreline unless it were attached to some public, federal, state or other subsidy program.

Commissioner Broili clarified that the City staff doesn't really know what the mean income of the people living in housing developments within Shoreline is. He said his personal experience in visiting the property is that the people who live in the trailer park had a nice situation and were able to live close to the lake. While they lived in trailers, there were a lot of expensive cars and boats, as well. He questioned if the residents of the trailer park could really be considered low-income. He said he is not convinced that the proposed project would really displace low-income residents.

Mr. Stewart advised that staff would attempt to provide a response to the Commission regarding the current laws for low-income housing.

5. ADJOURNMENT

COMMISSIONER HALL MOVED THAT THE COMMISSION MEETING BE ADJOURNED. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

The meeting was adjourned at 9:25 p.m.

David Harris Chair, Planning Commission	Jessica Simulcik Clerk, Planning Commission

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These Minutes Subject to
June 2nd Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING

May 19, 2005 Shoreline Conference Center
7:00 P.M. Board Room

PRESENT
Chair Harris
Commissioner Sands
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili
Commissioner MacCully

STAFF PRESENT
Tim Stewart, Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Matt Torpey, Planner II, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT
Vice Chair Piro

1. CALL TO ORDER

The regular meeting was called to order at 7:03 p.m. by Chair Harris, who presided.

2. ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Commissioners Kuboi, Sands, Hall, McClelland, Phisuthikul, MacCully and Broili. Vice Chair Piro was excused.

3. APPROVAL OF AGENDA

Commissioner Hall suggested that if the Commission does not feel they would have time on their agenda to consider the Critical Areas Ordinance, they could send Mr. Torpey home rather than requiring him to wait throughout the entire meeting. The Commission agreed that no changes should be made to the proposed agenda, and Mr. Torpey should remain at the meeting.

COMMISSIONER BROILI MOVED THAT THE AGENDA BE APPROVED AS PRESENTED. COMMISSIONER HALL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

4. DIRECTOR'S REPORT

Mr. Stewart advised that each of the Commissioners received a copy of the Shoreline Hearing Examiner's decision confirming the Mitigated Determination of Non-significance, and announced that the appeal that was filed on the Echo Lake SEPA Determination has been denied.

Mr. Stewart advised that Steve Burkett, the City Manager; Tom Boydell, the new Economic Development Manager; and Alicia Sherman, the Aurora Corridor Project Planner would be in attendance at the June 2nd meeting to introduce themselves to the Commission and have an informal chat.

5. APPROVAL OF MINUTES

The minutes of April 14, 2005 were approved as submitted. The minutes of April 21, 2005 were approved as amended.

6. GENERAL PUBLIC COMMENT

Barbara Lacy, 19275 Stone Avenue North, said she is a resident of the Echo Lake neighborhood and a Board Member for the Echo Lake Neighborhood Association. She recalled that at the April 14th meeting Commissioner McClelland asked if Echo Lake was safe for swimming. She shared data from a 2004 Swimming Beach Bacteria Levels Report that is published weekly on King County's website. She explained that Shoreline's water specialist, Andy Lock, sampled Echo Lake Water two to three feet from the sandy beach at the north end of the public park. She said the numbers in the report indicated that the water quality in Echo Lake was good. However, whether or not it is safe to swim in Echo Lake would depend upon the behavior of the public in the park and parental supervision. Signs in Echo Lake Park note that there is no lifeguard on duty. They also caution swimming, not feeding the geese or ducks, keeping pets on leash, bagging pet waste, bagging picnic garbage, etc. All of these are valid concerns for potentially harmful bacteria in the lake. She concluded that the decision to swim still rests with individual parents, but the neighborhood is extremely grateful that the City provided data to help them make individual choices about the risk of swimming. Ms. Lacy said the very first water sample for the 2005 weekly monitoring of Echo Lake was taken by Mr. Lock on Tuesday and would be posted on the website soon. Commissioner MacCully asked if Ms. Lacy or any of her family swims in Echo Lake. Ms. Lacy answered affirmatively.

7. REPORTS OF COMMITTEES AND COMMISSIONERS

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

8. STAFF REPORTS

There were no staff reports scheduled on the agenda.

9. PUBLIC COMMENT

No additional comments were provided during this portion of the meeting.

10. UNFINISHED BUSINESS

a. Deliberations/Recommendation for Rezones Related to Comprehensive Plan Amendments

Ms. Spencer advised that the public hearing for Items a.1 and a.2 was held on March 3rd, and all of the Commissioners were present, and could therefore participate in the deliberations and recommendations.

a.1 Crosby Rezone for Property Located at North 160th and Fremont (File Number 201371)

Ms. Spencer recalled that the Planning Commission recommended that the City Council deny the land use change request for this parcel. Therefore, the land use designation would remain as low-density residential. She noted that concurrent with the Comprehensive Plan amendment request, a rezone application was submitted to change the zoning from R-6 to R-24. The staff recommends that the Commission make a finding for denial of the rezone request since it would not be consistent with the Comprehensive Plan. She pointed out that the findings for this particular application could be found starting on Page 43 of the Staff Report.

COMMISSIONER BROILI MOVED TO RECOMMEND DENIAL OF REZONE APPLICATION 201371 FROM R-6 TO R-24 UNITS PER ACRE BASED ON THE COMMISSION'S PREVIOUS DENIAL TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION FROM LOW-DENSITY RESIDENTIAL TO HIGH-DENSITY RESIDENTIAL BASED ON THE FINDINGS PRESENTED ON PAGE 43 OF THE STAFF REPORT. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Commissioner Hall noted that the findings, as presented in the Staff Report, reflect the procedural history quite accurately. And the conclusions summarize some of the decisions the Commission made. However, during their deliberations, the Commission also specifically talked about the adjacent green space, the trees and their drip lines and how impractical it would be to save the trees if the proposed dense development were allowed to occur. They also discussed that the adjacent residential density, even across the street, is only R-18 instead of R-24. In addition, they discussed a possible section of Boeing Creek that flows through a pipe in the adjacent right-of-way. All of these issues could be sited as Findings of Fact instead of Conclusions.

Commissioner Broili added that the Commission also discussed that the there is a natural division between the low and high-density residential areas. Everything west of Fremont Avenue is low-density

residential. He said he previously expressed that he is opposed to the expansion of high-density residential zoning into the low-density area.

Commissioner Kuboi referred to Conclusion 4 on Page 46 of the draft findings in the Staff Report, which states, "Due to the site's proximity to a low-density zone to the west, the impact of allowing for placement of up to 4 units would adversely affect the adjacent low-density neighborhood." Commissioner Kuboi expressed his belief that this statement is too strong. He expressed concern about what it could mean to future instances where something with a higher density is proposed next to a lower density. He said that even though the proposed R-24 density sounds high, it would only result in four more units. He suggested that someone in the future could twist this conclusion in ways that might not have been intended by the Commission.

Commissioner Hall agreed and suggested that the wording of Conclusion 4 be changed to read, "The placement of four units would be inconsistent with the character of the R-6 zoning to the west." Commissioner McClelland recalled that when the Commission considered the Comprehensive Plan Amendment for this property, they agreed that an R-24 density was too high for a property that was adjacent to an R-6 neighborhood. She suggested that a better approach would be for Conclusion 4 to reference zoning designations rather than the number of units.

Commissioner Kuboi asked for clarification regarding the term "adversely affect." Mr. Stewart said the real criterion is "materially detrimental" and that is the standard the Commission should judge an application against. Commissioner Kuboi inquired if case law or staff experience has yielded a more concrete definition for "materially detrimental." Mr. Stewart said this term certainly offers staff some leeway, but the Commission clearly stated their reasons for recommending denial of the proposed Comprehensive Plan Amendment.

COMMISSIONER HALL MOVED TO AMEND THE MAIN MOTION BY CHANGING SECTION II PART 4 ON PAGE 46 OF THE STAFF REPORT TO READ, "R-24 ZONING WOULD BE INCONSISTENT WITH THE R-6 ZONING TO THE WEST." COMMISSIONER KUBOI SECONDED THE MOTION TO AMEND THE MAIN MOTION.

THE AMENDED MOTION WAS APPROVED 7-0, WITH CHAIR HARRIS ABSTAINING.

Chair Harris noted that he was not present when the Commission considered the Comprehensive Plan Amendment for the subject property and that is why he did not vote on the motion. Commissioner MacCully pointed out that he was present at the March 3rd public hearing, but he was not present when the Commission deliberated the proposed Comprehensive Plan Amendment. He questioned if he should have abstain from voting on the motion, also. Chair Harris advised that he was eligible to vote on the matter since he also attended the public hearing, but he chose not to.

a.2 Harper Rezone for Property Located on Northeast 15th (File Number 201277)

Ms. Spencer reminded the Commission of their recommendation to change the Comprehensive Plan Land Use Designation from Ballinger Special Study Area to High-Density Residential. She noted that

the Comprehensive Plan amendment proposal was accompanied by a rezone application to change the zoning on the property from R-6 to R-24. She advised that staff recommends the Commission approve the rezone application. She pointed out that the findings for this application start on Page 57 of the Staff Report.

COMMISSIONER HALL MOVED TO APPROVE REZONE APPLICATION 201277 FROM R-6 TO R-24 UNITS PER ACRE BASED ON PREVIOUS FINDINGS OF APPROVAL MADE BY THE PLANNING COMMISSION REGARDING A REQUEST TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION OF THIS PARCEL FROM BALLINGER SPECIAL STUDY AREA TO HIGH-DENSITY RESIDENTIAL BASED ON THE FINDINGS PRESENTED IN THE STAFF REPORT. COMMISSIONER KUBOI SECONDED THE MOTION.

Commissioner Hall recalled the statement he previously made when the Planning Commission deliberated the Comprehensive Plan Amendment proposal. The subject parcel is completely surrounded by high-density residential, and the aerial photographs seemed compelling. There was no neighborhood opposition. Only one person testified at the hearing, and they seemed to advocate a complete no growth approach. The Planning Commission has been challenged by the Comprehensive Plan goals, which call for growth and an increase in density. It is the Commission's task to try and site the growth in appropriate places. Allowing a higher density for property that is surrounded by a higher density provides an opportunity for the City to achieve their growth targets. He said he strongly supports the proposed rezone request.

THE MOTION CARRIED 7-0, WITH CHAIR HARRIS ABSTAINING.

a.3 Echo Lake Rezone (File Number 201372)

Mr. Stewart advised that, as requested by the Commission, staff attempted to create an amended set of conditions (Pages 63 through 66 of the Staff Report) for the Commission's consideration. He noted that in Condition 7 on Page 64, the reference to "3-I" should be changed to "4-H." Mr. Stewart noted that the genesis of where the condition came from is identified in parentheses at the end of each item. The conditions were published a week ago, and staff received three comment letters that were included in the Commission's packet. Mr. Stewart said that in the conditions, staff attempted to find middle ground and acceptable language based on the comments and testimony that were received at the public hearing. He referred the Commission to the yellow "Meeting Action Summary," which offers three options for the Commission to proceed.

Mr. Stewart pointed out that Commissioners Sands and MacCully did not attend the public hearing on the application. Unless they listened carefully to the tapes, they probably would be best advised not to participate in the development of the recommendation for Council. Commissioner Broili pointed out that he missed the first hour of the May 4th public hearing, but he did listen to the tapes from the meeting.

Commissioner Hall suggested that the Commission place a motion of approval on the floor and then work to amend the conditions as appropriate.

COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF THE REZONE APPLICATION FOR FILE NUMBER 201372 FROM R-48 AND REGIONAL BUSINESS TO REGIONAL BUSINESS WITH CONTRACT ZONE BASED ON THE FINDINGS IN ATTACHMENT E OF THE STAFF REPORT WITH THE PROPOSED CONDITIONS OF REZONE PRESENTED IN ATTACHMENT A ON PAGE 63 OF THE STAFF REPORT. COMMISSIONER BROILI SECONDED THE MOTION.

Chair Harris suggested that the Commission review the conditions one-by-one. The remainder of the Commission agreed. Commissioner Kuboi pointed out that anything that is not included in the conditions would not be enforceable. Therefore, it is important for the Commissioners to state their preferences so they can be included in the contract conditions. Mr. Stewart clarified that the contract rezone would be integrated with the Regional Business zone, and this has been clearly articulated in the first part of Condition 4. Therefore, the contract is not the entire body of regulations that would apply to the subject property, that if the contract does not specify a regulation the Development Code Standards for the Regional Business zoning district would apply. The contract conditions would identify deviations from the normal requirements of the Regional Business zone.

The Commission reviewed each of the proposed conditions and made the following comments:

- **Condition 1:** Mr. Stewart said it is important to recognize that the applicant must agree with the final set of conditions. If the applicant does not agree to one or more of the conditions, he/she does not have to sign the contract and the contract rezone would not be valid.

  Commissioner Phisuthikul suggested that language be added that the agreement would run with the land. Mr. Stewart said there would not be any need to add this to the condition because it is a fact that the contract would run with the land. However, it would not be appropriate for the City to limit ownership through the contract conditions. The applicant would be free to exchange, trade, barter or sell the property in the future with the associated conditions.

  Commissioner Kuboi asked if the term "all parties" refers to the applicant and the City, only. If so, perhaps they could just say "applicant and the City." This would make it clear that Echo Par is not a party. Mr. Stewart explained that the parties and ownership might be different than the applicant who signs the application. Therefore, he would prefer to use the term "all parties."

- **Condition 2:** Commissioner McClelland inquired if the 100 units that are proposed to be set aside are consistent with the issued SEPA MDNS decision. Mr. Stewart said the only MDNS requirement that would apply to Condition 2 is related to screening. The checklist provides some information about the number of units that would be allowed on the subject property, and extensive comments were previously provided by the applicant suggesting that perhaps the language should be modified. He referred to Condition 4b, which represents staff's attempt to craft language regarding affordable

units. He said he does not believe that Condition 2 and Condition 4.b would be inconsistent with the MDNS.

- **Condition 3:** Commissioner McClelland said she understands that the City's technical definition of Echo Lake is "Wetland" because they don't have a definition for a lake. But throughout the document, they call it both a wetland and a lake. Even though it has a classification as a wetland, she suggested that it should be called "the lake." Mr. Stewart said that would not be possible in Condition 3 since they want the buffer to run along the wetland, which is the edge of the lake. He said the City staff has consistently interpreted the Critical Areas Ordinance for a lake or water body to be a wetland, except where the court overruled them by determining that Peverly Pond was a stream. He emphasized that there is not a similar fact pattern in this case.

  Commissioner McClelland inquired if the reference to "wetland" in Condition 3 would only apply to the water's edge and not the whole lake. Mr. Stewart said they are referring to the edge of the water that meets the standards and criteria for a wetland. This might also impose further onto the land than what normally would be considered the edge of the water. Commissioner McClelland suggested that Condition 3 be changed to "the wetland portion of Echo Lake." Mr. Stewart explained that the wetland line would be delineated and then a 115-foot line would be drawn to establish the buffer limit where no development would be allowed.

  Commissioner Hall agreed that there could be a gap in the code that is confusing to some, but the code has been consistently applied. He explained that classifying it as a wetland is the only regulatory tool the City can use to protect Echo Lake. Without designating the lake as a wetland, the gap in the regulations could be interpreted to mean that no regulatory protection would be required at all. In his opinion, he said it is to the advantage of everyone who has testified about the importance of protecting the lake to continue to refer to it as a wetland.

  Mr. Stewart pointed out that this condition merely establishes the buffer for building. It does not require restoration, nor does it prohibit certain uses from occurring within the buffer. He said this fact would be important when the Commission reviews some of the other conditions.

- **Condition 4:** Commissioner Kuboi questioned why traffic was not included in the list of provisions. Mr. Stewart answered that the SEPA Checklist and the limitations on use (182,000 square feet of commercial and 350 residential units) are below the impacts that would have otherwise been generated by the current zoning. Limiting the intensity of development keeps the impacts below what would have otherwise been permitted under the current zoning. He noted that the current zoning had been studied during the adoption of the original Comprehensive Plan and Zoning Ordinance. There was no finding under SEPA that traffic mitigation should be required, and this determination has been upheld.

- **Condition 4.a:** Commissioner Kuboi requested clarification about how staff would interpret the phrase "generally comply with the site plan submitted with the application." Mr. Stewart said there is a gray area as to what level of specificity would be required for the development. The condition would require the development to comply with the general layout of the site, with the units and

configuration as shown on the site plan. If the property owner decides to build one large structure on the west side as opposed two or three, Commissioner Kuboi asked if a developer would be allowed to build one large structure on the west side as opposed to two ore three as indicated on the site plan. Mr. Stewart said this determination would have to be made when a formal proposal is submitted; but generally, this condition would provide some level of flexibility.

Commissioner Kuboi pointed out that the proposed site plan might not be anything close to what is actually built other than 350 housing units and up to 182,000 square feet of commercial space. Mr. Stewart said the site plan would be part of the record and incorporated into the ordinance, and the staff would have some discretion in deciding whether or not a development proposal generally complies with the site plan. He clarified that the site plan has always designated space for a City Hall/Office structure.

Mr. Stewart advised that the applicant has stressed the importance of allowing flexibility in order for them to accommodate the market. The staff believes that some flexibility would be reasonable, with all of the other conditions added to address future development. Commissioner McClelland pointed out that this condition would allow up to 10,000 square feet of retail space on the east side of the property. Does this mean a developer could construct up to 10,000 square feet of retail space in place of some of the housing units. Mr. Stewart said the overall development limitation is 182,000 square feet of commercial space, and up to 10,000 of this could be developed on the east side. This would leave 172,000 square feet on the west side. Also, up to 350 residential units would be allowed on the east side. Condition 4.c would also allow for the replacement of commercial space with residential uses on a square-foot-by-square-foot basis. Commissioner McClelland suggested that perhaps they should make it clear that the 10,000 square feet of commercial space allowed on the east side of the property would be calculated as part of the 182,000 square feet of commercial space allowed for the entire site. Mr. Stewart said he believes the conditions, as proposed, would limit the maximum amount of commercial space to 182,000 square feet total. However, the Commission could further clarify this constraint.

Commissioner Phisuthikul suggested that the key element of the proposed development is that it would be a true mixture of commercial and residential development. He asked if the Commission could impose a condition that any development proposal must include both commercial and residential development. This would prohibit totally commercial or totally residential developments. Mr. Stewart answered that this could be possible. However, he anticipates that the site would be developed in phases. Some of the phases might be heavily residential and others might be heavily commercial. By requiring a mixture of uses, they might further constrain the developer's ability to build something that is feasible. Commissioner Phisuthikul agreed that some phases might be more commercial and others more residential, but at least the master plan should clearly identify a mix of commercial and residential development for the site. Commissioner Hall suggested that there are ways to create a condition that might be acceptable to staff once they start deliberating on alternatives.

Commissioner Kuboi asked if the conditions, as proposed, would limit a developer's ability to construct a single "big box" commercial building that provides 182,000 square feet of space. Mr.

Stewart said some of the other conditions that have been proposed would prohibit this type of development.

- **Condition 4.b:** Commissioner Hall asked if the City could impose an additional condition aimed at achieving a minimum housing density. For example, he suggested that an additional condition could be added that would say, "No development shall occur on the site that would preclude a yield of a minimum of 250 housing units on the site in the general configuration of the site plan." Mr. Stewart said this type of condition would be acceptable to the staff. Commissioner Hall said it would be consistent with the developer's testimony, but it would offer some assurance that the development would not be all commercial or all residential.

  Commissioner Kuboi asked if the last words of this condition would place a burden on the project proponent to seek out and apply for subsidies, or would this be the City's responsibility. Mr. Stewart explained that the new language in this condition represents a compromise based on the comments from the public hearing. The intent of this condition is to require the developer to assert effort to find subsidies. He explained that when a specific development proposal is submitted, staff would ask what attempts the developer made to find subsidies. The staff would expect the developer to provide a rational and factual based answer. He concluded that if the developer makes a substantial effort to comply, this effort would satisfy Condition 4.b. They would not deny the development permit unless there was no evidence in the record to show that effort had been made.

- **Condition 4.c:** Mr. Stewart pointed out that the second sentence in this condition represents compromise language that is intended to provide for flexibility in design. The staff agreed with the applicant that this would be on a square-foot-per-square-foot basis and would actually reduce the traffic impact associated with the development because trading commercial square footage for residential square footage would generate fewer trips. This condition would also help promote the City's housing goals. He emphasized that the condition would not allow a developer to trade residential units for more commercial space.

- **Condition 4.d:** Commissioner Hall asked if this condition would permit 563 surface parking spaces on the site. Mr. Stewart said it would allow for 500 spaces to be open to the sky, but this might be proportionately on the surface and on the top floor of a garage that is not covered.

- **Condition 4.e:** The Commission did not have any comments to make regarding this proposed condition.

- **Condition 4.f:** Mr. Stewart explained that Commissioner Phisuthikul proposed the language in this condition. When the developer did the actual calculations, it was very onerous. The condition has been modified to protect the first 50 feet of the wetland buffer as opposed to the entire 115 feet. Ms. Lehmberg said that in order to meet the condition to allow solar access for the entire buffer, the applicant indicated that they would have to set the building back an additional 65 feet, which did not seem reasonable. Mr. Stewart expressed his belief that the proposed modification to this condition represents a technically objective standard for design, and it would allow the architect opportunities to be flexible.

Commissioner Phisuthikul explained that it would not make sense to draw a hard line for where the developer should protect the solar access for the buffer area. Only a portion of the building might cast a shadow within the 50 feet, and the rest could be open for the sunshine. He suggested that drawing a hard line would be too limiting. As proposed, this condition would only apply to about half of the setback area, and the applicant would be required to make their best effort to protect the solar access. It is intended to be a design guideline.

Commissioner McClelland inquired if a building could be built right up to the edge of the 115-foot buffer line. Mr. Stewart answered affirmatively. Commissioner Phisuthikul added, however, the developer must demonstrate that he has done the best he can to comply with Condition 4.f. If part of the building is right next to the buffer but the rest is set back and does not cast a shadow into the buffer, the development would be in compliance with the condition.

- **Condition 4.g:** Commissioner McClelland asked if the 90 percent identified in this condition would be variable, depending on how many units they end up with. Mr. Stewart said these standards are part of the current development code for maximum impervious surface. Commissioner McClelland pointed out that 15 feet of the buffer area would be treated as a setback. Mr. Stewart clarified that all 115-feet would be the buffer, but 15 feet of it could be used when calculating the amount of impervious surface allowed.

- **Condition 4.h:** Mr. Stewart explained that when the staff reviewed the original site plan and tree inventory, it appeared that they would be incompatible with the preservation of trees outside of the wetland buffer. There was significant staff debate, and not all staff members support this condition. He noted that the relief proposed in the condition would not apply to either the wetland or the buffer area. Trees on site would be exchanged for the development of an approved habitat restoration plan in the wetland buffer.

  Commissioner Kuboi asked why staff did not recommend tree replacement as a condition instead of requiring a habitat restoration plan for the buffer. Mr. Stewart said the City's landscape standards require tree replacement, but the tree ordinance requires it at a higher standard. The Commission could require tree replacement in accordance with the tree ordinance standard, but staff felt that the landscape tree replacement standard would be adequate and that a habitat restoration plan would be an adequate trade-off. Commissioner Kuboi recalled that this issue was raised during the applicant's negotiations with the Echo Par Group. Mr. Stewart said this was originally a staff recommendation that the developer concurred with in his March 28th comment letter. It was also a subject of the agreement with members of the Echo Par Group. The original agreement was that the "owner shall identify significant trees and preserve as many as can be preserved consistent with their design parameters." He felt the original condition was quite ambiguous.

- **Condition 5:** The Commission did not provide any specific comments regarding this condition.

- **Condition 6:** Commissioner Broili referred to Line 4 of this condition, which would require the developer to work with the City. He asked what this phrase would imply. Mr. Stewart said the site and Echo Lake is the collection point of a fairly large drainage basin that runs all the way up through Sky Nursery and the Gateway site. He said one of the benefits that was discussed early on was the opportunity for the City to work with the developer to build an oversized water treatment and collection facility to handle some of the runoff from roads in the larger basin. This would have to be a voluntary agreement by both the City and the applicant, but they wanted to include it as a condition so that people would know that the opportunity exists. If the site required a treatment facility of a certain size and the City wanted to make this larger, they would have to subsidize construction of the oversized facility.

  In the event of a conflict between the Department of Ecology Manual and the City's adopted Stormwater Manual, Commissioner Broili asked if it is standard procedure for the City's manual to prevail. Could this condition state that whichever provides the highest standard should prevail? Mr. Stewart said the agreement between the applicant and some of the citizens who participated in the SEPA appeal would require the developer to comply with the Department of Ecology Manual and City requirements. The City requires the use of the King County manual, and parts of the two manuals are inconsistent with each other. In these situations, this condition would require that the City's manual be implemented. The proposed condition is an attempt to accommodate the private agreement but still be consistent with the City's regulations.

  Commissioner Broili suggested that there might be occasions where the Department of Ecology Manual would be more stringent in its requirements, and he would prefer to err on the more stringent side. Mr. Stewart said that a higher standard might result on the site because of the private agreement provision, but it would be a private matter. The City would enforce its own regulations. He emphasized that the City was not part of the private agreement.

  Commissioner Broili asked if Condition 6 could be reworded so that they end up with the most stringent stormwater approach possible. Mr. Stewart answered that when he discussed this condition with the Public Works staff, they were very concerned about trying to merge the two manuals and about the lack of knowledge the City's technical staff has about the Department of Ecology Manual.

  Commissioner Sands said his interpretation of Condition 6 is that there is a separate private agreement that would require the applicant to comply with the Department of Ecology Manual. If the requirements in the Department of Ecology Manual were more stringent than the City's, the City would not be opposed to the applicant meeting the more stringent requirement. However, if the Department of Ecology Manual were less stringent, Condition 6 would require the developer to meet the requirements in the City's Stormwater Manual. He said it appears that, either way, the most stringent standard would be applied. Mr. Stewart agreed.

  Commissioner McClelland asked if this condition would require the applicant to consider working with the City. Mr. Stewart said the two parties would enter into a discussion that would probably

involve at least the City's willingness to contribute or propose an oversized system. If the City were willing to propose this, the developer would be obligated to consider whether or not they want to work with the City. Because the facility would be much greater than the applicant would be required to do on his/her own, it would require some form of contribution of public funds for the benefit of collecting and treating stormwater from the larger drainage basin.

Commissioner Hall recommended that the Commission spend the remainder of their time considering the changes they want to make to the conditions. Additional clarification could be requested along the way. He expressed his concern that the applicant has worked hard to go through a difficult process, and he would like the Commission to reach resolution of the matter by 10:00 p.m. so they could adjourn the meeting. If they continue in their current format, they will not likely be able to do this.

Commissioner Broili said he still has a few questions of clarification before he is ready to consider possible changes to the conditions. The Commission agreed to spend another ten or fifteen minutes to focus on the highest priority questions that each Commissioner has, but they should not belabor their discussions right now. They should start talking about changes to the conditions by 9:00 p.m. Commissioner McClelland questioned the need to rush a decision on one of the largest developments that will occur in the City over the next several years. Commissioner Phisuthikul suggested that many of the questions that have been raised are related to semantics. Chair Harris urged the Commission to ask straight questions for fact finding instead of deliberations. Commissioner Broili pointed out that this is a time-sensitive application, and the YMCA has a deadline of June 1 for a decision to be made. Commissioner McClelland cautioned that it is the Commission's responsibility to make sure there is not a single opportunity to misinterpret the intentions of the conditions.

- **Condition 7:** Commissioner Broili commented that he does not believe "BuiltGreen" certificates would be appropriate since they relate to single-family residential development only. However, the developers should consider pursuing LEED for buildings in the project.

- **Condition 8:** Commissioner McClelland asked if the term, "enhancement and restoration plan for the shoreline of Echo Lake" references the wetland. If so, shouldn't they just call it the wetland? Mr. Stewart explained that Conditions 8, 11.a, 11.b, 11.c, 12, 13 and perhaps others are really just refinements of Condition 4.h, which has to do with the creation of a habitat restoration plan. These other conditions refer to fine details that have been negotiated between the private parties and will be incorporated into the habitat restoration permit. He explained that the term referenced by Commissioner McClelland is broader than a wetland in that a wetland is regulated as the area of land at the edge of the water. The restoration plan goes beyond this area and talks about restoration within the lake, itself. Commissioner Phisuthikul suggested that the Commission move on since they have already determined that the Echo Lake is referred to as a wetland.

- **Condition 9:** Commissioner Phisuthikul asked what the term "existing higher quality shoreline areas" refers to. Mr. Stewart said this area would be identified by a biologist who would looking at classifications of higher and lower quality functions.

- **Condition 10:** Commissioner Broili said he is unclear about the meaning of the term "contiguous 70 feet of lake shoreline." He asked if this is related to the 75 feet that is referenced in Condition 11. Chair Harris asked how the staff came up with the 70 feet that is recommended in this condition. Mr. Stewart said this condition is the beach and dock provision that was part of the negotiated private agreement between Echo Par and the property owner. It would provide for a beach and a boardwalk within the 70 feet. The notion is that the remaining area would be fully restored into habitat, as would the area behind the beach with the dimensions described in the condition. He summarized that the 70-foot width would be measured along the shoreline.

  Chair Harris asked if the staff agrees with the 70 feet that is identified in this condition. Mr. Stewart said the staff does not object to Condition 10, but the property is currently privately owned. There are some benefits identified in further conditions that would allow public access to the area. He concluded this condition is a value statement of how much of a beach and dock the applicant is willing to grant.

- **Condition 11:** The Commission did not provide any specific comments about this condition.

- **Condition 12:** Commissioner Kuboi said it is important to remember that the conditions would run with the land. He asked if the term "public access" would be something a future owner would not be able to take away. Mr. Stewart answered the condition would require a dedication of public access easement, and the public would have a right to use the easement in perpetuity.

- **Condition 13:** The Commission did not provide any specific comments about this condition.

- **Condition 14:** Commissioner Broili said he has been concerned all along that there should be a link between Aurora Avenue and the Interurban Trail. He said he does not see anything in the proposed conditions to address this connection. Mr. Stewart said there is a guarantee of public access from the trail, and there would also be an access point at 192nd.

- **Condition 15:** The Commission did not provide any specific comments about this condition.

- **Condition 16:** The Commission did not provide any specific comments about this condition.

- **Condition 17:** The Commission did not provide any specific comments about this condition.

- **Condition 18:** Commissioner McClelland noted that the house on the site would be moved. She asked if the City would help find a new location for this structure. Mr. Stewart answered negatively. He said the Condition would encourage the developer to work with historic preservation organizations to seek to preserve the Weiman house either on or off site. The condition also includes a provision that the applicant at least offer the house at no cost for removal. He emphasized that the City would have no obligation to participate in this effort.

- **Condition 19.a:** The Commission did not provide any specific comments about this condition.

- **Condition 19.b:** Chair Harris inquired if this condition would require more than the current code. Mr. Stewart answered that this is consistent with the current code, so the condition would be ambiguous. However, he said staff does not have a problem including it as part of the conditions of approval.

- **Condition 19.c:** The Commission did not provide any specific comments about this condition.

- **Condition 19.d:** The Commission did not provide any specific comments about this condition.

Commissioner Hall said that in all of the testimony received at the public hearing, there was only one person who supported the adoption of the proposal as currently conditioned. Even the applicant, when questioned, said that he would not support approval of the rezone with the conditions that were in place at the time. Of those who expressed concern about the rezone, the primary theme was regarding the protection of Echo Lake. He said that, in his opinion, the staff proposed conditions that were introduced at the beginning of the public hearing process addressed the protection of Echo Lake in a very admirable way. The Commission also received substantial oral and written testimony encouraging the redevelopment of the site. He said he believes most of the ideas put forward in the agreement between the applicant and some of the individuals who filed the SEPA appeal are redundant with the conditions originally proposed by the staff and the applicant. In some cases, they contain language that is more ambiguous and inconsistent with the City's Development Code regulations. He particularly referred to **Conditions 8, 9 and 10**, and said he believes they are largely redundant with **Condition 4**. He noted that the statement in **Condition 10,** which requires 70-feet of lake shoreline to be used for the boardwalk to the beach and dock, is currently in conflict with the City's Critical Areas Ordinance.

In addition, Commissioner Hall suggested that **Conditions 16 and 17** be withdrawn since they are duplicative of **Conditions 6 and 7**. He said he believes that **Condition 17** is less helpful than **Condition 7**. Next, Commissioner Hall said he finds **Condition 11** to be overly restrictive and gets into a level of detail that is unnecessary. If the City already requires them to have a wetland biologist develop a habitat restoration plan, then that should be the end of it. It should be left up to the professional and the staff to determine the plan's adequacy. He said he believes that **Condition 19** contains a set of requirements that is far more appropriate at the building permit stage and should be introduced there, instead. He also suggested that since **Condition 15** would not be legally enforceable, it should be deleted, as well. He noted that all of the conditions he mentioned were added at a later date, and were not initially negotiated between the staff and the applicant.

Commissioner Hall also recommended that a new condition be added to require a public access easement from Aurora Avenue on the northern half of the frontage to the site of the proposed boardwalk.

Commissioner Kuboi said he would support the removal of conditions that actually present a conflict. However, he pointed out that the other conditions represent an agreement between the applicant and some of the members of the Echo Par Group, and it appears that staff does not have a problem including them as conditions. He suggested that they run the risk of making the parties of the private agreement feel as though they were undermined by the Commission's process. This could result in a backlash that

would make it more difficult for the City Council to approve the proposal. Unless there is a conflict or flaw in the proposed conditions, he would be in favor of leaving all of them in.

Chair Harris pointed out that the City does not necessarily have to take a stance on the points that are contained in the private agreement. The private parties could still be in agreement, as long as their views do not conflict with those of the City.

Commissioner Hall said he is sensitive to Commissioner Kuboi's concerns. However, there is testimony on the record from several people who are also members of the Echo Par Group who did not support the negotiated agreement between some members of the group and the private property owner. He noted that Dr. Paulsen, Tim Crawford and Pat Crawford are all on record as being opposed to the private agreement.

Commissioner Broili noted that **Condition 4.g** states that "the maximum impervious surface allowed on the site shall not exceed 90%" and this applies to both the commercial and residential portions. He said it is his belief, and scientific evidence and professionals would agree, that they can do far better than this by using low-impact design approaches such as vegetative roofs, water catchment systems, permeable hard surfaces, geotechnical solution such as bioswales, best soil management practices as stated in the State Stormwater Manual (Section DMPT.6.13), etc. All of these low-impact design approaches would help them get to far better than 90 percent impervious area.

Secondly, Commissioner Broili referred to **Condition 6**, which states that the City shall work with the developer to install on oversized stormwater system. He suggested that the City could reach an agreement with the developers to help them apply low-impact development approaches that would reduce impervious surface dramatically, and this would reduce stormwater run off.

Commissioner McClelland asked who would enforce the conditions in the private agreement. Mr. Stewart said that if the conditions were included in the contract rezone, the City would be required to enforce them. He noted that many of the conditions are not mandatory, but are effort-based. Commissioner McClelland asked if it would be possible to separate the conditions into those that are private and those that the City could and should enforce.

Commissioner Broili suggested that he would be in favor of eliminating some of the conditions, but only if they could achieve the other two goals he identified.

COMMISSIONER HALL MOVED THAT CONDITION 17 BE DELETED SINCE IT IS REDUNDANT WITH CONDITION 7. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Commissioner Hall suggested that if the motion is approved, **Condition 7** could be amended to add the term "low-impact development." Commissioner Broili agreed, but said he would rather remove the words "shall consider" from **Condition 7** and make it more mandatory.

THE MOTION CARRIED 4-2, WITH CHAIR HARRIS AND COMMISSIONER KUBOI VOTING IN OPPOSITION AND COMMISSIONERS MACCULLY AND SANDS ABSTAINING.

COMMISSION HALL MOVED TO AMEND CONDITION 7 TO READ, "GREEN BUILDINGS. THE DEVELOPERS SHALL CONSIDER PURSUING A LEED OR BUILTGREEN CERTIFICATE FOR THE BUILDINGS IN THIS PROJECT AND SHALL CONSIDER LOW-IMPACT DEVELOPMENT TECHNIQUES SUCH AS IMPERVIOUS CONCRETE, ETC. THE MOTION DIED FOR LACK OF A SECOND.

Commissioner Broili suggested that perhaps the reference to low-impact development should be placed in **Condition 4.g.**

COMMISSIONER BROILI MOVED TO AMEND CONDITION 7 TO READ, "THE DEVELOPERS SHALL CONSIDER PERSUING A LEED CERTIFICATE FOR BUILDINGS IN THIS PROJECT." COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED, 6-0, WITH COMMISSIONER SANDS AND MACCULLY ABSTAINING.

COMMISSIONER KUBOI MOVED TO AMEND CONDITIONS 12 AND 14 TO ADD THE WORD "EASEMENT" AFTER "PUBLIC ACCESS." COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Mr. Stewart noted that the access required in **Conditions 12 and 14** could be perfected through either an easement or a dedication of an actual right-of-way. Commissioner Kuboi said he wants to make sure that these conditions assure that the public access requirement would run with the property. Mr. Stewart said "public access" is a commonly accepted condition or requirement. But how it is done, through either an easement or dedication, is an option for the developer to consider. Commissioner Kuboi recalled that at the public hearing, the applicant indicated that he did not plan to offer a dedication of sorts. Based on the applicant's comments to the Commission, it is not clear he agrees that public access means something in the form of a legal right. Mr. Stewart said staff would interpret **Conditions 12 and 14** as requiring public access from the Interurban Trail, through the buffer area and to the lake. They would not require access to Aurora Avenue or to other places.

Commissioner Kuboi said that none of the conditions speak to any sort of access right to the public access area. The applicant could build structures that facilitate people physically accessing the property, but that does not mean they would have the legal right to be there. He said he would like some assurance that the public would have a legal right to be in the area.

Commissioner Broili suggested that **Conditions 12 and 14** be combined into one succinct statement that connects Aurora Avenue and the Interurban Trail via a boardwalk. Commissioner Hall agreed with the intent of Commissioner Broili's suggestion. However, he proposed that rather than combining them they should keep the two conditions separate. To address Commissioner Kuboi's concerns he proposed an amendment to the motion that would add a sentence to **Conditions 12 and 14** and a new **Condition 20.**

COMMISSIONER HALL MOVED THAT THE MOTION BE AMENDED TO CHANGE CONDITIONS 12 AND 14 BY ADDING A SENTENCE TO EACH THAT READS, "THE PUBLIC ACCESS SHALL BE ENSURED THROUGH PERPETUITY THROUGH THE APPROPRIATE LEGAL DOCUMENT." COMMISSIONER KUBOI SECONDED THE AMENDMENT. THE AMENDED MOTION CARRIED 6-0, WITH COMMISSIONERS MACCULLY AND SANDS ABSTAINING.

COMMISSIONER HALL MOVED TO ADD A NEW CONDITION 20 THAT SAYS "THE DEVELOPERS WILL PROVIDE PUBLIC ACCESS FROM AURORA AVENUE ON THE NORTHERN HALF OF THE SITE TO THE BOARDWALK ALONG THE LAKE. THIS PUBLIC ACCESS SHALL BE ENSURED THROUGH PERPETUITY THROUGH THE APPROPRIATE LEGAL DOCUMENT." COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Hall pointed out that the proposed new **Condition 20** would provide a public access easement from Aurora Avenue to Echo Lake and would be separate from the one that would connect to the Interurban Trail. Commissioner Phisuthikul asked that the access described in **Condition 20** be required to continue to the Interurban Trail. Commissioner Hall suggested that would not be necessary. He used a drawing to illustrate that **Condition 12** would require a public access from the boardwalk to the lake, **Condition 14** would require a public access from the Interurban Trail to the boardwalk, and **Condition 20** would require an access from Aurora Avenue to the Interurban Trail. This would result in three separate access conditions.

THE MOTION CARRIED 6-0, WITH COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

COMMISSIONER HALL MOVED THAT CONDITION 10 BE DELETED FROM THE CONTRACT. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Hall said he does not dispute the value of **Condition 10.** However, the restoration and enhancement of the buffer area is dealt with in **Condition 4.h.** He acknowledged the he would rather have a wetland expert define the restoration plan. He said the public access has been provided for in **Condition 12**, and the statement relating to the beach and dock presumes something that is not in evidence as a condition. In addition, he questioned whether this would even be consistent with the City's Critical Areas Ordinance.

Commissioner Broili asked if **Condition 10** is the only place that the dock and beach are mentioned. Mr. Stewart answered affirmatively. Commissioner Broili noted that this is urban property, and a dock would be appropriate. However, he would be opposed to a beach because there is already a beach on the north end of the lake, and an additional beach could create unnecessary habitat disturbance. A dock, if done properly, could be a very nice addition to the opportunities that are present. He said he would vote against the motion as proposed.

Chair Harris agreed that the Critical Areas Ordinance does not have provisions for active recreation in buffer areas at this time. But an amendment has been proposed that the Commission could consider at a later date. He reminded the Commission that the applicant's goal is to allow a YMCA to locate on the subject property, and he believes the community would be incredibly disappointed in the Commission if they end up with a beautiful wetland with a hands-off approach. They have an opportunity to provide for active recreation, life saving classes for the YMCA children, canoeing, sail boating, etc. He pointed out that Green Lake is the most used park in the State. While the habitat is being impacted, they must balance the public's needs versus habitat needs. He said he would support more beach area if possible

THE MOTION WAS WITHDRAWN.

COMMISSIONER HALL MOVED THAT CONDITION 10 BE AMENDED BY REPLACING THE WORDS "BEACH AND DOCK" WITH THE WORD "LAKE."

Commissioner Hall suggested that the last sentence in **Condition 10** is simply a statement of intent. **Condition 10** speaks to a boardwalk without dictating at this time whether there will be a dock or not. Chair Harris noted that some of the City's strongest environmental advocates came up with the proposal.

Commissioner Hall drew an illustration to show that the reference to "70 feet of the lake shoreline" would be interpreted as a linear distance along the shoreline of the lake. The intent of his motion would not require that this be a sandy beach, but it does say that the developer would not have to restore it to its natural wetland conditions. He pointed out that 10 of the 70 feet would be intended for use as a boardwalk. Some form of public access would connect the boardwalk to the Interurban Trail and to Aurora Avenue.

Commissioner McClelland agreed with Chair Harris that there are excellent opportunities to provide for public access and use of the waterfront for recreational purposes. Commissioner Hall pointed out that the conditions, as proposed, would not require public access throughout the entire 70-foot area. According to **Condition 12,** the public access would be on the 10-foot strip that would be used for a boardwalk and not the entire 70 feet. Commissioner McClelland suggested that the residents of the 350 residential units would have expectations for amenities associated with the lake. Would people be able to run down the boardwalk and dive into the lake? Commissioner Hall said he is reasonably confident that the public could swim in any water in the state. But they cannot necessarily walk along any shoreline.

Commissioner Broili suggested that the motion be amended so that **Condition 10** would read as follows: **"**The developers will restore and enhance 70 feet of the lake shoreline, 10 feet of which will be used for a boardwalk and dock." He said he wants the end result to be a dock, with no beach. Commissioner Hall said he would not support Commissioner Broili's recommendation as a friendly amendment. He said he does not think they can require a dock as a permit condition when it is currently against the law in the City of Shoreline. Mr. Stewart said there might be some ability under the current regulations to construct a dock, but clearly a beach would not be allowed. Mr. Torpey said that residential property owners have been allowed to have docks under Section 20.80.030.K, which is an exemption to the

Critical Areas Ordinance that allows uses in buffers or their critical areas that are determined by the City to be minor.

Commissioner Broili said the intent of his amendment was to provide a boardwalk and dock, but no beach area. Chair Harris said he would like to make provisions for both a dock and a beach area, even though the current Critical Areas Ordinance would not allow it. Mr. Stewart said that if **Condition 10** were changed as proposed, the first sentence that requires the developer to restore and enhance all but a contiguous 70 feet of the lake shoreline would be mandatory. The second sentence is the intent to apply, and it would only be allowed or fulfilled if the Critical Areas Ordinance were amended.

THE MOTION CARRIED 4-2, WITH COMMISSIONERS BROILI AND MCCLELLAND VOTING IN OPPOSITION AND COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

Commissioner Kuboi referred to **Condition 4.a** and asked if the Commissioners are comfortable that there are enough protective measures to prevent a "big box" store (like the Target at Northgate) from being built on the subject property. Mr. Stewart reminded the Commission that the 182,000 square foot limit for commercial development would include both the north and south sites that are shown on the site plan. Commissioner Kuboi pointed out that if the YMCA is not located on the site, something akin to a low-impact "big box" store like Target could be built on the site without violating the conditions of the contract rezone. Mr. Stewart said this would depend upon the form of building that is proposed. Commissioner Kuboi expressed his concern that there could be significant deviation from the site plan, and the applicant would still remain within the terms of the contract rezone.

Commissioner Phisuthikul asked if it would be possible for the Commission to impose a condition that any proposal should include both commercial and residential development. Commissioner Kuboi said this would still not address his concern that they could end up with a large, massive structure along Aurora Avenue, which would be significantly different from the site plan the public used as a basis for picturing what would take place on the site. Commissioner McClelland agreed with Commissioner Kuboi that the site plan drawing is meaningless. If the only limitation is 182,000 square feet of commercial space and 350 housing units, the actual development could be quite different than what is identified on the site plan. She said the Commission must consider the significant impact development of this site could have on the people who live on the east side of the lake and look down on the subject property.

Commissioner Hall said he understands all of the various Commission concerns. He said he recognizes that the proposed contract conditions are not perfect, and he is not convinced they could be made perfect, either. The staff has a role in the discretionary process as part of their building permit review at a later date. He reminded the Commission that the applicant turned in his application in December of 2004, and he has been strung along by a lot of issues. The Commission has improved the conditions, and he is prepared to vote affirmative on the main motion to approve the contract rezone.

Commissioner Kuboi asked if it was discussed with the applicant whether or not the site plan would still be a workable setup for the commercial part of the development. Mr. Stewart said that in his letter of

March 28, 2005, the applicant indicated that he is okay with the way staff crafted the words in **Condition 4.a,** and staff believes that the language provides flexibility for some measure of change. They currently have a visual image of the massing and scale of the project, but they feel the developer should be allowed some flexibility to work with the market. The Commission's goal should be to ensure a high-quality development, and constraining the site too much could be detrimental to the end project.

COMMISSIONER BROILI MOVED TO AMEND CONDITION 4.g TO READ, "USING LOW IMPACT DESIGN PRACTICES SUCH AS VEGETATIVE ROOFS, A WATER CATCHMENT SYSTEM, PERMEABLE SURFACES, ETC., THE DEVELOPER SHALL CONSIDER WORKING WITH THE CITY TO NOT EXCEED 20% IMPERVIOUS SURFACE WITHIN THE COMMERCIAL PORTIONS OF THE SITE AND SHALL NOT EXCEED 20% OF THE RESIDENTIAL PORTION OF THE SITE. COMMISSIONER MCCLELLAND SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Commissioner Broili said he believes this condition would be very achievable using all of the various techniques available. He said it is to the City's best interest to reduce runoff, and by working with the developer, they could achieve this goal. The end result would be a better building, less runoff, and a better project overall. He noted that these techniques have been demonstrated locally on many sites in Seattle. In some cases, it is actually less expensive to develop in this manner.

Commissioner McClelland pointed out that Commissioner Broili's recommendation would reduce the amount of impervious surface allowed on the site from 90 percent to 20 percent. She suggested that this would require the structures to be higher in order get the allowed 182,000 square feet of commercial space. Commissioner Broili disagreed. He said there are some who would say that it is possible to achieve zero percent impervious surface.

Commissioner Hall said he does not believe it is possible to achieve less than 20 percent total impervious surface. He said he would also be very hesitant, at this late date, to introduce a condition that is so different from what has been discussed over the past six months. He strongly agreed that it would be a great benefit to the City of Shoreline to have a significant low-impact development demonstration project, and many jurisdictions have created ordinances that provide incentives in order to achieve these objectives.

Chair Harris said he has a great deal of respect and confidence in Janet Way and her people, and he trusts her on environmental issues and their group did not propose a reduction in the impervious surface requirements. He said he would not support the proposed motion.

Commissioner McClelland asked if the 90 percent identified in **Condition 4.g** is an environmental consideration or a code consideration. Mr. Stewart answered that the current code allows for up to 90 percent impervious surface in both the regional business and the high-density residential areas. However, there are additional conditions that have to do with the cleaning and discharge of water and how it is treated when it comes off the impervious surfaces. He said the City's current Stormwater

Manual regulates how the City manages the stormwater for both quantity and quality. It also regulates where the water is discharged.

Commissioner Broili said he chose a number that he is confident could be achieved, but he is also flexible. He said he would like to work for a better percentage than the 90 percent that is currently proposed, since this would be the maximum allowed. He suggested that if the City were to work with the developer, they could lower the amount of impervious surface dramatically. Chair Harris agreed with Commissioner Broili's point that the developer would have to mitigate the surface runoff, and there would be a real cost value to this effort. He suggested that the developer would explore the least costly options for accomplishing this requirement. If the lower impervious surface options were less costly, the developer would likely go that route as a cost saving measure. But he said he does not believe they need to make this a condition of the rezone.

Commissioner Phisuthikul said the low-impact techniques that Commissioner Broili referenced are included in the LEED Program Certification. These are options and avenues the design architects could use. He expressed his concern about reducing the amount of impervious surface allowed for this one specific project only.

Commissioner McClelland suggested that a better approach would be to offer incentives to developers who design projects with less than 90 percent impervious surface. Mr. Stewart pointed out that the City's definition of impervious surface in the development code is "any material that prevents absorption of stormwater into the ground." Under that definition, some of the green techniques that have been discussed would not qualify. Secondly, he pointed out that normally in a traditional development proposal, all of the buffer area would be counted as pervious surface. Under the current proposal, only the 15 feet would be counted. The gross amount of impervious surface would actually be less than 90 percent.

THE MOTION FAILED 1-5, WITH COMMISSIONER BROILI VOTING IN FAVOR, COMMISSIONERS PHISUTHIKUL, KUBOI, HALL, MCCLELLAND AND CHAIR HARRIS VOTING IN OPPOSITION, AND COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

COMMISSIONER KUBOI MOVED TO AMEND CONDITION 4.d BY REMOVING THE WORD "SURFACE." COMMISSIONER HALL SECONDED THE MOTION.

Commissioner Kuboi pointed out that surface parking and parking open to the sky is not necessarily the same thing. Parking on the surface of the ground could be the first floor of a structured parking lot, and parking open to the sky could be the top floor. He does not see that the surface aspect is relevant.

THE MOTION CARRIED 6-0, WITH COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

COMMISSIONER MCCLELLAND MOVED TO AMEND CONDITION 4.H TO CHANGE "AN APPROVED HABITAT RESTORATION PLAN" TO "FISH AND WILDLIFE HABITATION RESTORATION PLAN."

Commissioner McClelland said that when the Critical Areas Ordinance has been updated, it will refer to a Fish and Wildlife Habitat Restoration Plan, and this will become a term of art in the ordinance. Mr. Stewart said the Fish and Wildlife Habitat Conservation Area is a designated critical area that has regulations attached. The intent of **Condition 4.h** is to provide for a habitat restoration plan for fish and wildlife, but the Commission cannot speculate about what may or may not be approved in the Critical Areas Ordinance amendments. He said it would help if he could understand why the current language is not sufficient.

THE MOTION DIED FOR LACK OF A SECOND.

Commissioner Hall offered the following comments and requested that they be listed as part of the findings that are forwarded to the City Council:

- Many supporters of the proposal, including neighbors, community groups, environmental groups, and Forward Shoreline based their support, in part, on public access.
- The Comprehensive Plan policies identified in deliberations on the recommended land use designation change call for public access in this location, and these policies were already in place when the current owners purchased the property. That includes the Comprehensive Plan land use designation of the 50-foot strip of Public Open Space.
- The proposed site plan shows that there is room outside the building footprints to accommodate public access improvements that could be developed as discussed from the Interurban Trail and from Aurora Avenue. The public access conditions do not impose any additional burden on the developer.
- Public comments and letters, such as the very recent one from Pearl Noreen dated May 11th, suggest that the City Planners or the Planning Commission is somehow holding up the possible development of a YMCA. He referenced the Planning Director's statement reflected in the minutes of the April 14th meeting, "The YMCA would be permitted under current zoning. It is not dependent upon either a Comprehensive Plan change or a rezone."
- Some from the public indicated that it is difficult to do business in Shoreline. Rezones require public hearings, and it the duty of the City and the Planning Commission to conduct these public hearings. He was pleased at the number of people who participated. All of his comments and amendments are based on testimony he heard and letters he received that are on the public record.
- The State law allows for appeals, and in this case, the SEPA determination was appealed. This caused a delay in the process through no fault of the City or the Planning Commission. The City worked with the Hearing Examiner and all parties to agree to a process and schedule for the joint hearing of the Planning Commission and Hearing Examiner. The withdrawal of the SEPA appeal by some of the appellants and the attempt not to withdraw by others brought into question whether the SEPA appellants had a uniform, legitimate interest in environmental issues or if some of them were actually seeking to strike out against the City's contemplation of a City Hall, etc.

- He agrees with Dr. Paulsen's recent concern in her letter about the last minute changes to the conditions. This did a disservice to the community, the Planning Commission and the City.
- There were members of the public, including some of the SEPA appellants, who made remarks about it being inappropriate for the Commissioners to talk to City staff. Remarks were also made about the Commission's decision to impose time limits during the hearing. They received clarification on these issues from the City Attorney. Time limits are a well-established and completely legal way of insuring that everyone in the community has an equal opportunity to participate in local land use decision-making processes rather than allowing outside interests to dominate the discussion and have undue effect on local land use decisions.

Mr. Stewart reread the main motion as follows:

COMMISSIONER HALL MOVED TO RECOMMEND APPROVAL OF THE REZONE APPLICATION FOR 201372 FROM R-48 AND REGIONAL BUSINESS TO REGIONAL BUSINESS WITH CONTRACT ZONE BASED ON THE FINDINGS PRESENTED IN ATTACHMENT E OF THE STAFF REPORT AND WITH THE PROPOSED CONDITIONS OF THE REZONE PRESENTED IN ATTACHMENT A AS AMENDED. COMMISSIONER BROILI SECONDED THE MOTION.

THE MOTION CARRIED 6-0, WITH COMMISSIONERS SANDS AND MACCULLY ABSTAINING.

b. Critical Areas Ordinance Deliberations

There was not sufficient time for the Commission to deliberate on the Critical Areas Ordinance.

11. NEW BUSINESS

There was no new business scheduled on the agenda.

12. AGENDA FOR NEXT MEETING

Mr. Stewart noted that there have been some requests to schedule a discussion on the "sidewalk in lieu of program" on an agenda in the near future. While staff is prepared to discuss this issue with the Commission, they feel the code enforcement update and the Critical Areas Ordinance review should be completed first.

Chair Harris noted that Cottage Housing and the Critical Areas Ordinance are scheduled on the June 2nd meeting agenda.

13. ADJOURNMENT

The meeting was adjourned at 10:25 p.m.

_____ _____

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing and Recommendations on Possible Changes to Cottage Housing Regulations
DEPARTMENT:	Planning and Development Services Department
PRESENTED BY:	Tim Stewart, Director of Planning and Development Services
	Paul Cohen, Senior Planner

EXECUTIVE SUMMARY

The cottage housing regulations have existed since year 2000 when the City developed its first Development Code. Since then seven projects totaling 55 cottage homes have been built. Cottage housing helps meet the City's needs for consistency with the State Growth Management targets, the Comprehensive Plan, and community stated preference for smaller and alternative housing choices. However, most cottage housing projects have been somewhat controversial in the surrounding neighborhood. This culminated in a moratorium in August 2004 in order to study the concept of cottage housing further. The moratorium ends August 2005.

Based on public comments staff suggested amendments to the existing Development Code regulations for cottage housing and analyzed alternatives to severely limit or eliminate cottage housing.

STAFF RECOMMENDATION

Staff recommends: 1) Planning Commission conduct a pubic hearing on June 2 to receive comments on the proposed alternatives for cottage housing; and 2) Adoption of proposed amendments in Attachment II to achieve more desirable and compatible cottage housing development.

I. INTRODUCTION

City Council adopted a moratorium on new cottage housing August 23, 2004 so that City staff could study the topic and its issues through a public process.

II. BACKGROUND

- 1998 - City adopted the Comprehensive Plan with Policy LU27 allowing cottage housing in R-6 zones of the City.
- 1999 - City formed the Shoreline Planning Academy to receive citizen guidance for the City's first Development Code.
- 2000 - City adopted the Development Code with provisions for cottage housing (SMC 20.40.300).
- 2003 - City adopted refinements to the cottage housing regulations.
- August 2004 - City adopted a six month moratorium on cottage housing.
- February 22, 2005 - City Council amended the moratorium ordinance to be extended another 6 months until August 19, 2005.
- March 5 and 12, 2005 - City conducted a bus tour of Shoreline's cottage housing.
- April 2005 – Council preliminary direction to keep cottage housing Policy LU27
- May 11, 2005 - Staff held a community meeting to discuss and make recommendations on cottage housing.
- May 26, 2005 – SEPA Determination of Non-Significance issued for proposed amendments.

Community Meeting - At the May 11, 2005 community meeting there were approximately 60 citizens, 5 City Council members, and 4 Planning Commissioners present. Many citizens spoke out against cottage housing while some others spoke in favor of cottage housing. See Attachment I for a summary of the meeting. However, when discussion turned to the Greenwood Cottages citizen opinions seem to be more balanced between those in favor and those against cottage housing because of that development's quality and compatible design. Citizens raised additional issues integrated below under Issues 8 through 12.

III. DISCUSSION

The key event that began the August 23, 2004 moratorium and this review of the cottage housing regulations was the proposal by developers for 16 cottage homes located at 19141 - 8th NW. Though this proposal was not approved or supported by staff the developer wanted to proceed with the application process and its required neighborhood meeting. Protests by the neighbors convinced the City Council that a moratorium was necessary until the issues could be studied and reviewed.

After review and analysis of the issues, two alternatives for addressing the issues emerged: Alternative A - Amend the cottage housing regulations to achieve more

desirable and compatible cottage housing developments; and Alternative B - Severely restrict or eliminate future development of cottage housing in Shoreline. The issues and responses that were put forth by staff at the community meeting are the following:

ALTERNATIVE A – Amend the Cottage Housing regulations (Attachment II)

Issue 1: Over-concentration and unpredictable location of cottages in single family neighborhoods. While the decision criteria for a Conditional Use Permit (SMC 20.30.300 B 6) prohibit "the detrimental over-concentration" of cottage housing, this has not been defined. The proposed amendment #1 defines that no more than 8 units shall be located within 1,000 feet from any single point in the City. This amendment would clearly establish and define "over-concentration" and address this problem.

Example: From any parcel within the City a one thousand foot circle would be draw. If there were 4 cottage housing units within that circle, four additional cottage housing units would be permitted; if there were eight units no additional units would be permitted; if there were no units, eight new units would be allowed.

One citizen's response to this amendment was that if a 5 unit development were built then the remaining potential of 3 more units within the 1,000 foot radius could not be built because of the 4 unit minimum for cottage housing.

Issue 2: Some Cottage housing developments are too big with too many units. The current code (SMC 20.40.300 D) requires that cottages be developed "in clusters of a minimum of four units to a maximum of 12 units" but does not prohibit any single development from containing more than one cluster. The proposed amendment #4 restricts any cottage housing development to a total of 8 units. This amendment would work in tandem with amendment #1 to limit both the size of any one development and the concentration of all developments within any one thousand feet.

Issue 3: Allowing double the density of the underlying zoning district is too much. The current Development Code (SMC 20.40.300 C) allows a factor between 1.75 and 2.00 to increase density depending on the size of the floor area of the units. Amendment #3 would reduce the density bonus to "up to 1.75" thereby eliminating double the density.

Issue 4: Developers are building some cottages too bulky. The current code establishes a maximum main floor area then establishes a complex formula related to density. Amendment #2 would simplify this and establish a minimum of 700 SF on the first floor of the 1,000 SF total. The effect of this amendment would be to reduce the maximum second floor to no more than 300 SF or allow all 1,000 SF to be located on the main floor.

Issue 5: Developers are building some cottages too tall. Currently, cottages, garages and community buildings have the potential to be built to 25 feet in height. Approximately 25 feet is needed fit two stories under a pitched roof. To address this

issue, Amendment #5 further limits the size of garages and community buildings to a maximum of 18 feet. In addition, amendment #2 requires the majority of the building bulk to be on the main floor.

Issue 6: Cottage housing appears crammed together. Currently, cottages have the potential to be built at double the density and be separated across the common open space by 20 feet. Under the CUP criteria the City approves cottage housing if the amount of open space and building coverage are the same or less than the surrounding properties. Amendments #3 and #6 will increase the amount of open space and prevent narrow lot developments.

Note: The City is experiencing a few single family housing developments that could not or did not want to meet the cottage housing standards and alternatively have developed single family homes without lot lines areas, smaller internal setbacks, and more units. These developments are the 10 homes at 730 N. 175th Street and the 8 homes Chrysalis project to be built at 19141 – 8th Ave NW. Because these projects do not have lot lines they only need to meet the density requirement of the R-6 zone. This allows them greater development potential with internal setbacks needing only to meet the Fire Code. Some of these homes are separated by 6 feet with the building size of a conventional single family home.

Issue 7: Cottage developments don't have enough parking on site and create overflow problems on neighbor parking strips.
Currently, cottages must meet the 1.5 or 2 parking stalls per unit and do not permit additional guest parking. Amendments #3 and #8 in combination lower the density/parking demand and require 2 stalls per unit with added guest parking. Conventional single family requires 2 parking stalls, however, up to 6 cars are allowed to park on approved parking surfaces.

The following issues #8 – 12 were raised at the community meeting but no specific amendments have been proposed or recommended by staff.

Issue 8: Cottage Housing provisions should be reviewed every (2) years. Though the cottage housing regulations have been reviewed every 2 or 3 years, the proposed amendments could include a set schedule to review the provisions of cottage housing.

Issue 9: Cottage Housing should be ADA accessible for the elderly. Currently there is no requirement that single family houses (including cottages) be ADA accessible. Current cottage housing regulations force the design to have an upstairs because of the maximum main floor limit, therefore part of the cottage is inaccessible. If desired, amendments could include a requirement to make some cottages ADA accessible or allow the main floor to have all of the 1,000 square foot floor area.

Issue 10: Cottage development should preserve significant trees.
Currently, cottage development has the same requirement for tree preservation as all other residential development, which is minimally 20% of the existing trees if an environmentally critical area is not on site.

Issue 11: Cottage Housing seems likely to become rentals rather than owner occupied. The City does not regulate ownership or tenants of any type of housing. There is no indication that the current cottage housing has a higher level of rentals than conventional single family housing.

Issue 12: Cottages increase traffic in the neighborhood. Cottage housing may increase traffic slightly over conventional single family development. Local traffic data are consulted to assure that the local streets are not pushed to designed capacity by the added development.

Issue 13: Cottage Housing Reduces / Increases Neighboring Appraised Values – Some neighbors are concerned that their property investment will diminish in value. Some neighbors are also concerned that their property values will increase in value causing their property tax to increase.

Though the City does not approve development based on whether it will increase or decrease adjoining property values it is concerned that all City property values remain strong. In a simple review of King County Assessor records staff researched properties abutting three completed cottage developments in Shoreline. The Greenwood, Madrona, and Fremont cottages were surveyed because they were completed several years ago so that appraisals appear before and after their completion from 1999 to 2005. The survey did not consider City or region-wide trends as they may affect property values. The survey showed that King County appraised property values continued to increase before and after the three cottage developments were completed at an average yearly rate of 6.5%.

Issue 13 is very difficult to legislate or codify. Discerning and appraising property value for each development and surrounding properties prior to approval cannot be realistically accomplished or reliable without disputes.

Issue 14: Cottage Housing is Incompatible with Shoreline's Single Family Neighborhoods – This is an issue that is difficult to quantify and is more perceptual to the values of individuals. However, in the staff survey of existing housing styles in the vicinity of these developments a variety of styles were observed.

- Smaller pre-WWII housing with more traditional detail of clapboard and trim on large lots originally.
- Post WWII housing modest, one story rambler with less architectural detail.
- Recent homes have much larger square footage of at least 2,000 to 3,000 square feet floor plan, 2 ½ stories and smaller yards.

Although some of the existing housing in the vicinity of cottages could be defined as cottages in size and style, the recent cottage developments are perceived by many as different and incompatible. Compatibility is very difficult to codify and administer clearly without staff discretion. It is difficult to discern why cottages are perceived as incompatible.

- Is it the initial shock of a wooded, adjacent lot being cleared for any development;
- That smaller housing may mean that renters may be moving in; or
- That cottage housing maybe the first sign of other types of development cropping up in the neighborhood?

Citizens stated that they moved from cities like Seattle to Shoreline to live away from more intense development. It may mean that compatibility has less to do with architectural style and open space and more to do with increased density.

Issue 15: Cottage Housing is another way to allow greater density into R-6 zones. The intent of cottage housing is to allow more, low-key density in R-6 zones to partially meet State Growth Management targets and to provide housing to a market that wants nice communities with a smaller house that fits their needs. The intent of cottage housing is to meet conditional use criteria (Attachment III) to be compatible to their neighborhood and have similar impacts as conventional single family development (Attachment IV).

If future cottage housing is prohibited then it will require the City to create additional housing primarily by expanding multifamily zones in the City. Under the Growth Management Act, and the King County Countywide Planning Policies, the City of Shoreline is obligated to provide for population growth and to plan for 2618 new dwelling units including 350 cottages for the period 2001-2021 or 131 units per year including 17 cottages per year. However, since 2001 the City has experienced 430 new units built and 89 units demolished for a net growth of 374 units or 94 units per year including 11 cottages per year. That means the City is 37 units per year short of the targeted 131 all types of housing.

ALTERNATIVE B: Severely restrict or eliminate Cottage Housing

If the City thinks that cottage housing cannot be improved or resolved by code amendments then the Council can repeal or severely restrict the cottage housing regulations. If cottage housing development is severely restricted or eliminated, the City will need to expand multifamily zoned areas to increase the development potential for housing construction in order to meet State Growth Management targets. There are at least three ways to eliminate or severely restrict cottage housing.

- Eliminate the cottage housing provision in the Development Code (20.40.300). Under this alternative, cottage type units might still be developed, but at the

same density of larger single family dwellings. The likelihood of smaller units being developed under this alternative is small.

- Completely eliminate the density bonus for cottage housing. This would have the same impact as eliminating cottage housing altogether. Developers would likely not build smaller units without a density bonus.

- Restrict cottage housing to medium or high density residential (multifamily) areas. This alternative would have the effect of eliminating cottage housing in Shoreline. The total area needed for building footprint, parking, circulation and open space under the current Development Code would make it extremely difficult to permit the full use of the current density bonus. Simply put, there is not enough room in an R8 zone to meet all of the cottage housing development standards and provide for the increase in density which makes cottage housing feasible. There is very little R8 zoned land in the City. It is likely that multifamily housing forms will be more attractive than cottage housing.

CONCLUSIONS

Many citizens on both sides of the issue agreed that the Greenwood Cottages is a very good model of desirable development. The Greenwood Cottages is the only built development that would meet the proposed code amendments (Attachment II). The proposed amendments would further limit the amount of cottage housing in Shoreline but would ensure higher quality developments. The amendments address the issues of over-concentration, density, parking, accessibility, open space, building form, and property values.

If cottage housing were eliminated or restricted then the City's housing stock would fall further behind our State Growth Management targets. However, many people still do not want cottages built in Shoreline. The Planning Commission has three options.

1. Recommend elimination or severely restrict cottage housing to higher density residential zones.
2. Recommend the proposed amendments as recommended by staff.
3. Recommend the proposed amendments with additions or deletions.

IV. STAFF RECOMMENDATION

Staff recommends: 1) that the Planning Commission conduct a public hearing on June 2 to receive comments on the proposed alternatives for cottage housing and 2) Adoption of proposed amendments in Attachment II to achieve more desirable and compatible cottage housing development.

V. ATTACHMENTS

Attachment I: Summary of Community Meeting
Attachment II: Proposed Cottage Housing Amendments
Attachment III: Conditional Use Criteria in R-4 and R-6 Zones
Attachment IV: Comparison of Cottage and Single Family Dimensional Standards

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Summary Minutes from the May 11, 2005 Cottage Housing Community Meeting

City Council Members Present
Deputy Mayor Scott Jepsen
John Chang
Maggie Fimia
Paul Grace
Bob Ransom

Planning Commissioners Present
Chair David Harris
Sid Kuboi
Mike Broili
Will Hall

Prior to the meeting attendees were asked to sign in and place a dot on a map of the City indicating what parts of the City meeting attendees reside.

Tim Stewart, Director of Planning and Development Services for the City of Shoreline provided the historical context for "why Shoreline has cottage housing".

Paul Cohen, a Planner at the City of Shoreline gave a "power point" presentation on the issues that have been identified with cottage housing.

Following the presentation meeting attendees were encouraged to ask questions and provide comments. The following is a summary of those questions, answers and comments:

- Interested in a "long term" look at the history/effects of cottage housing. People who moved into a neighborhood zoned R-4 expect R-4 development in that neighborhood – not higher density. Cottage housing is a way to get around maximum density.
- Why is the meeting not being run by elected officials? Answer: There are 5 Council members and 4 Planning Commissioners in attendance. Council directed staff to prepare and conduct this meeting. Council is the final decision making authority on the issues regarding cottage housing.
- Zoning protections are being lost without public input. Large lots attracted people to Shoreline along with good schools, adequate access for emergency vehicles, etc. Cottages are linked to speeding, increased traffic, loss of ambiance. Note: property values are up 11% not 4%.
- Although he does not like cottages, at first he thought they might be an option for the elderly. He now doesn't even think they work for the elderly. A townhouse is another alternative for the elderly. Some cottages for sale near his home have been on the market for several months at $314,000. They have just changed real estate agents. The singe family house next door sold very quickly. Cottages are not affordable at $314 per square foot. States that real estate agents now ask

sellers to disclose if a cottage housing development exists or is proposed in the vicinity. The uncertainty of not knowing where and when a cottage housing development is going to be allowed is difficult. Cottages allow some to profit while others lose property value. Answer: Cottages are not intended to be affordable housing. In fact, cottage development is prohibited from applying the affordable housing density bonus.

- Commenter lives next to Hopper Cottages. The cottages have had an emotional impact on her and her family. Her house is circa 1959. The cottages are built on one side and a very large single family home is built on the other. She worked with the developer for the Hopper Cottages. One problem was their house was not drawn to scale on the site plan for the cottages. Realtor said property values will be reduced by 10%. Who will pay for that loss in value?
- Disappointed that the real reason the meeting was called was not included in the presentation. Stated that the reason the meeting occurred was because of the opposition to cottages in the 8th/191st area and that he was a leader for this charge. Does not care what the rules are they are ridiculous. How many cottages do we want in this City over the next 20 years? Answer: The City has planned on 350 units of cottages.
- 15% of Shoreline's population is disabled – about 9,000 people. What are we going to do to stop discrimination against the disabled? Cottage housing is not ADA compliant. Answer: Any development of more than 10 units triggers conformance with the ADA.
- Design by committee is not good. There has got to be a better way than cottages. The steps in cottages are unattractive to the elderly.
- He and his wife live in the Greenwood Cottages. They feel they live in vacation land. Their cottage community embraces each other and the surrounding single family homes as a community. Cottages fit the needs of baby boomers looking of low maintenance yards. Cottages are safe choice for single women and single mothers. Greenwood Cottages is a beautiful place to live.
- How many of the 2600 GMA required units have been built? Answer: About 100 a year – 1,000 since 1995. Call Paul Cohen for an exact count.
- Owner of a .92 acre property located at 1st NW has been working with a developer. The developer stated that in an R-6 zone, the maximum allowed zoning must be granted or it is a takings.
- How does the City determine when and where a traffic problem will occur in relation to proposed developments?
- Property value fears, are just that, fears. Cottages cost more. Small houses are needed for widows and divorcees. Cottage housing is attractive to many because it is single family detached living: no shared walls, people walking overhead, etc. She spoke to the previous issue of traffic impacts: exact same as for single family. She emphasized the need for living options for different people.
- Cottage housing is more appropriate in multi family zones. What are required side yard setbacks?
- Against cottages. Why did the design of cottages change after the construction of Greenwood Cottages? Issues: quality development and parking.

- What fits better in Shoreline neighborhoods? Cottages? McMansions? Can we change the code to do cottages "right"? She lives in Greenwood cottages and loves it. She loves the community there. There is demand for cottages, a waiting list for the Greenwood cottages developers units.
- Not necessarily opposed to cottages. Citizens don't like cottages. Why are they good for us? Go to state legislature to ask for a variance from the GMA. Suggested that the city come up with a better model for accommodating growth and changing demographics. Cottages may work if Greenwood is the model. Answer: Reduce the bulk and scale of cottages; community asked for a look at cottages and we will be taking that information into consideration as we provide recommendations to Council. Providing a diversity of choices for changing demographics is a good idea.
- Builder a cottages at 1634 Fremont Avenue N: used Greenwood cottages as the model. At first many of the neighbors complained. He then met with the neighbors several times to work on the issues. All of the neighbors ended up happy. He stated he wanted to build cottages with footprints that were 750 to 850 sq. ft., but was told by the City that the footprints could not exceed 600 sq. ft. Limiting the basement height to 6ft. is a bad idea – it should be taller.
- An alternative to cottage housing: small houses on small lots. She is bothered by the discretionary permits/exemptions. PADS is responsible for enforcing the Code. Public confidence in the enforcement of the Code will reduce fears. Citizens shouldn't have to enforce the Codes.
- Comment regarding a lot at 1st Ave. NW/Richmond Beach Road: 6 houses on less than an acre; let's say there are 100 trees requiring that 20 trees will be retained; Asked how developer will compensate for the loss of trees? Answer: tree retention and replanting is the same for cottages as for single family development.
- Goal – no more impacts by cottages. Main objections: traffic and quality of life. Answer: # of people residing in one traditional SF home is on par or greater than the number residing in two cottages.
- 1) Cottages are condos; 2) No cottages in single family neighborhoods; 3) This may cause problems with GMA, but Council, Commission and staff can find another solution outside of single family zoning.
- Greenwood Cottage resident commented that she does not want large single family homes to be constructed on the lot behind Greenwood Cottages if it redevelops, but would like to see cottages.
- Father sold homes in Shoreline. He worked on the vision for Shoreline. Shoreline has good real estate. Decision not to buy Firlands from the state was a mistake. City has done nothing to improve North City. Shoreline has good schools. There is scientific evidence that more space is healthy, less dangerous.
- Comment on good Seattle Times article on cottage housing in Kirkland.
- Comment regarding cottages at 8th NW/193rd –Some cottages are too tall and look like tall milk cartons.
- Commenter lives on 190th one cul de sac away from proposed 16 units of cottage housing. Not against cottage housing, but do fear the over concentration of it.

- ❖ Commenter has experience with Meridian and Ashworth cottages. Requested the demographics on current residents of cottages regarding owner occupied vs. rental and value of homes.
- ❖ Purposeful planning of cottages – well thought out and planned. Cottages do not help with maintaining, sustaining or creating a sense of community with existing community.
- ❖ Elaboration on "why does Shoreline allow cottages" answer: to Conserve land, preserve resources, low maintenance yards. If there is not enough housing, prices go up and it becomes too costly for our kids to grow up and live in Shoreline. There is no right or wrong. There is value in all comments. Announced idea of Senior Cottages – community seniors would be given first chance to purchase a cottage in their neighborhood. The senior could downsize and that would also open up a single family home to the housing market. Suggested combining the pro and con groups into one or more integrated work groups.
- ❖ Rezoning requires proper public notification. Suggested that cottage housing require a zone change to R-8 or R-12. He mentioned that cities required to meet GMA that are not meeting their housing targets are paying penalties. Questioned the idea of allowing density bonuses for expensive housing or should these bonuses only be allowed for affordable housing.

No On Cottages Group – led by Matt Torpey

- Cottages should be located near commercial areas
- Cottages are OK in areas that allow condos/higher densities
- Cottages should be located near mass transit
- How was the GMA growth target of 2,600 units determined? How is it enforced?
- Cottages should not be allowed in single family zones
- No objections to allowing cottages in R-12 and above zoning
- The door has been opened to allow cottages… can it be closed?
- Cottage Housing developments are about developers making money. Developers are making a higher profit building Cottage communities than they are building two single-family homes. Allowing cottage housing is allowing developers to make more money at the expense of surrounding neighbors.
- Main problems with cottage housing: loss of quality of life in neighborhood, increased traffic and higher density
- Questions surrounding Cottage Housing setbacks
- Question about the one-lane road down 183rd - Ashworth Cottages; increased traffic, sidewalk/curb
- Traffic is a major problem around Cottage Housing developments
- Current development code doesn't force Cottage Housing to provide enough parking spaces which creates overflow on streets
- Concern over not being able to go back in time – after Cottages exist, you can't take them down
- Require an area/neighborhood radius traffic study, not only a site-specific traffic study
- Worry about absentee landlords and rental units

- Concerned over deterioration of property, becoming a 'slum' like property
- Neighboring homes property value decrease - cottages are too close to single family homes property line, too many people squeezed into one lot and the traffic increases
- Harry Obedin, Cottage House Developer: as a developer he has the choice of building 3 mega houses or 4 Cottage Homes. He questioned the group what is better?
- Would not care if Cottage Housing was located in multi-family neighborhoods
- Hold Community meetings to plan, analyze and evaluate Cottage Housing – hold a community meeting two years from now to see if we are succeeding
- Hopper Cottages are an example of wrong way to build Cottage Homes; Cottage Housing should match the character and density of the neighborhood they are going into.
- Cottages should be as high as they are wide.

Cottage Housing Refinement Group led by Paul Cohen

- Support for the parking amendment. Would like to encourage parking on semi pervious surfaces such as grasscrete.
- Parking should be 50% covered with a pitched roof.
- Like amendments – cottages have a valid place.
- Cottages have been an experiment/trial. Experiments/trials require periodic evaluation to make adjustments. The city should monitor the next set of changes – Plan ahead.
- There are trade offs if you increase the footprint and decrease the upper floor. The trade offs are increased impervious surface and reduced open space.
- A problem was noted with the concept of limiting the total number of units to 8, especially in combination with geographic restrictions i.e. allowing only one cottage housing development per 1000 foot radius. The number of cottages should be limited by the site. A foreseeable problem is that a developer will select a site and only be able to put in for example 5 cottages on the site that he/she selected. Three cottages would then be lost and further restricted by the 1000 foot radius rule. This will force the price of cottages to increase.
- Cottages are affordable in comparison to single family housing costs in Richmond Beach.
- Suggestion: Create a Design Review Board like in Redmond – maybe incorporate into the neighborhood meeting process)
- Cottages should not exceed a story and a half. Two stories is not a cottage.
- Cottages should be low with a pitched roof.
- There was some disagreement in the group regarding limiting the height of cottages.
- The bulk of a cottage should be controlled. Suggestion: to create a less bulky story and a half cottage, the side exterior walls should not exceed 12 feet plus a pitched roof could work well.
- Gables and dormers look good on cottages.
- Story and a half concept with livable space in the ½ story.

- Two stories plus a pitched roof is too tall.
- Idea: using ratios to regulate the size of upper and lower floors.

EXISTING COTTAGE HOUSING CODE WITH AMENDMENTS ADDED

20.40.300 Cottage housing.

A. For the definition of cottage housing see SMC 20.20.014. The intent of cottage housing is to:

Support the growth management goal of more efficient use of urban residential land;

Support development of diverse housing in accordance with Framework Goal 3 of the Shoreline Comprehensive Plan;

Increase the variety of housing types available for smaller households;

Provide opportunities for small, detached dwelling units within an existing neighborhood;

Provide opportunities for creative, diverse, and high quality infill development;

Provide development compatible with existing neighborhoods with less overall bulk and scale than standard sized single-family detached dwellings; and

Encourage the creation of usable open space for residents through flexibility ~~in~~ density and design.

AMENDMENTS #

1. No more that 8 cottage housing units shall be located within 1,000 feet from any single point in the City. A proposed cottage development application shall meet this requirement from the property of a previously vested application, issued permit, or built cottage development under the SMC.

2. The total floor area of each cottage unit shall not exceed 1,000 square feet. Total floor area is the area included within the surrounding exterior walls, but excluding any space where the floor to ceiling height is less than six feet. The minimum~~aximum~~ main floor area for an individual cottage housing unit shall be 700 square feet~~as follows:~~

~~For at least 50 percent of the units in a cluster, total 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.~~

3. ~~-~~Up to 1.75 ~~The following number of~~ cottage housing units may ~~shall~~ be allowed in place of each single-family home allowed by the base 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~~

4. Cottage housing developments shall have ~~units shall be developed in clusters of~~ a minimum of four units and ~~to~~ a maximum of ~~12~~ 8 units not including community buildings.

5. The height limit for all cottages structures shall not exceed 18 feet. Cottages ~~or amenity buildings~~ having pitched roofs with a minimum slope of six and 12 may extend up to 25 feet at the ridge of the roof. All parts of the roof above 18 feet shall be pitched. Parking structures and community buildings shall not exceed 18 feet.

6. ~~.~~Each c~~C~~ottage housing units shall be oriented around and have the covered porches or main entry from the common open space. Units fronting on streets shall have an additional entry facing those streets. The common open space shall~~must~~ be at least 250 square feet per cottage housing unit and landscaped primarily with ground cover. Open space with a dimension of less than ~~2~~20 feet shall not be included in the calculated common open space. Cottage units and community building shall be separated at least 40 feet when separated by required open space.

7. Each cottage housing unit shall be provided with a minimum private ~~use~~ open space of 250 square feet. Private open space with a dimension of less than 10 feet shal not be included in the area calculation. ~~with no dimension of less than 10 feet on one side~~. It should be contiguous to each cottage, for the exclusive use of the cottage resident, and oriented toward the common open space. Fencing or hedges bordering private open space shall not exceed 2 feet in height.

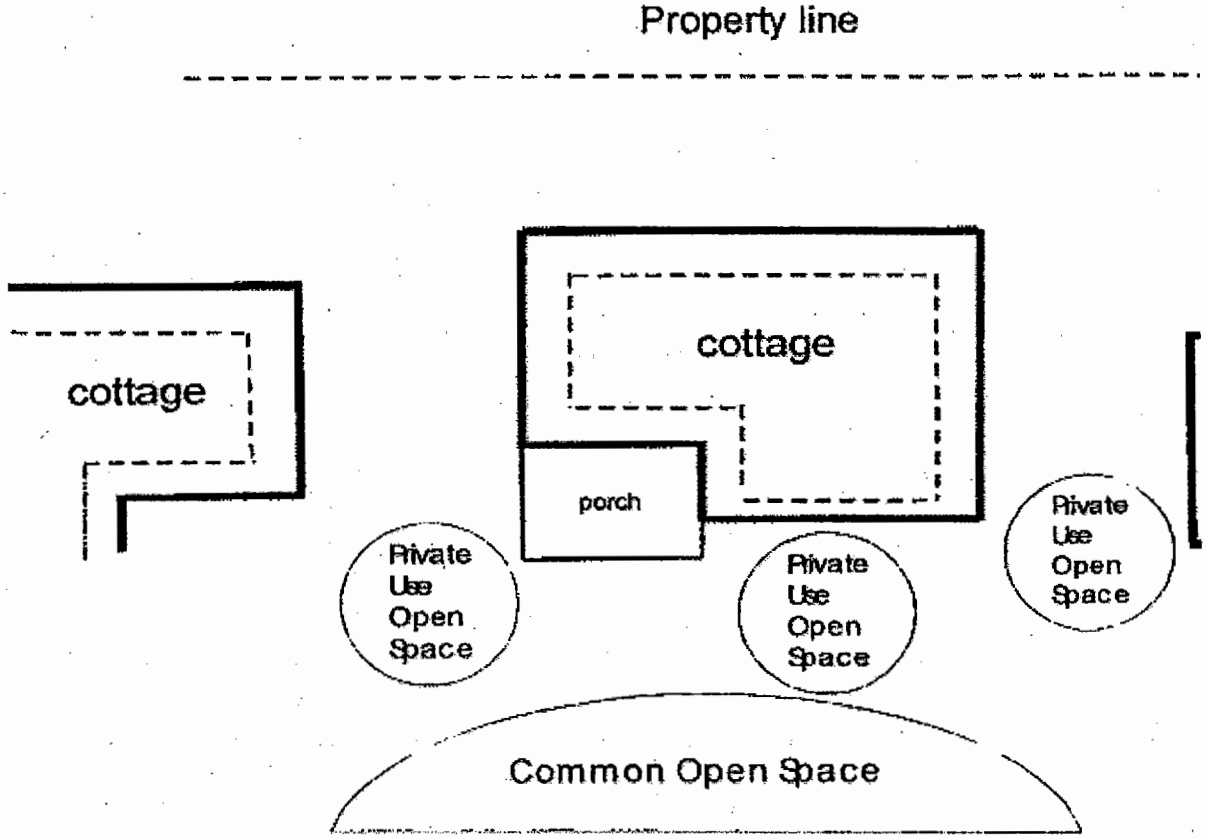

Figure 20.40.300(G): Private use open space should be contiguous to each cottage, for the exclusive use of the cottage resident, and oriented towards the common open space.

~~H~~. Cottage housing units shall have a covered porch or entry at least 60 square feet in size with a minimum dimension of six feet on any side.

~~I~~. All structures shall maintain no less than 10 feet of separation within the cluster. Projections may extend into the required separation as follows:

- Eaves may extend up to 12 inches;
- Gutters may extend up to four inches;
- Fixtures not exceeding three square feet in area (e.g., overflow pipes for sprinkler and hot water tanks, gas and electric meters, alarm systems, and air duct termination; i.e., dryer, bathroom, and kitchens); or
- On-site drainage systems.

~~J. Parking for each cottage housing 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~~

8. Parking shall be:

- Two parking stalls for each cottage housing unit and I guest stall for every 2 units shall be provided. Tandem parking is allowed.

Clustered and separated from the private and common area and cottage units by landscaping and/~~or~~ architectural wall under 4 feet in height with trellis above 6 feet in height ~~screen. No solid board fencing allowed as architectural screen.~~

- Screened from public streets and adjacent residential uses by landscaping and/~~or~~ architectural screen. No solid board fencing allowed as architectural screen.
- Set back a minimum of ~~40 feet from a public street, except for an area which is a maximum of (1) 50 feet wide; or (2) 50 percent of the lot width along the public street frontage, whichever is less, where parking shall have a minimum setback of~~ 15 feet from a public street.
- Located in clusters of not more than five abutting spaces.
- A minimum of 50% of the parking space shall be covered.

9. Setbacks for all structures from the property lines shall be an average of 10 feet, but not less than five feet, except 15 feet from a public ~~street.~~ Right-of-Way or public sidewalk, whichever is greater.

10. ~~All fences on the interior of a lot shall be no more than 36 inches in height.~~ Archtiectural ~~Fences~~ screens along the property line may be up to six feet in height subject to the sight clearance provisions of SMC 20.70.170, 20.70.180 and 20.70.190(C). No chain link or solid board fences allowed.

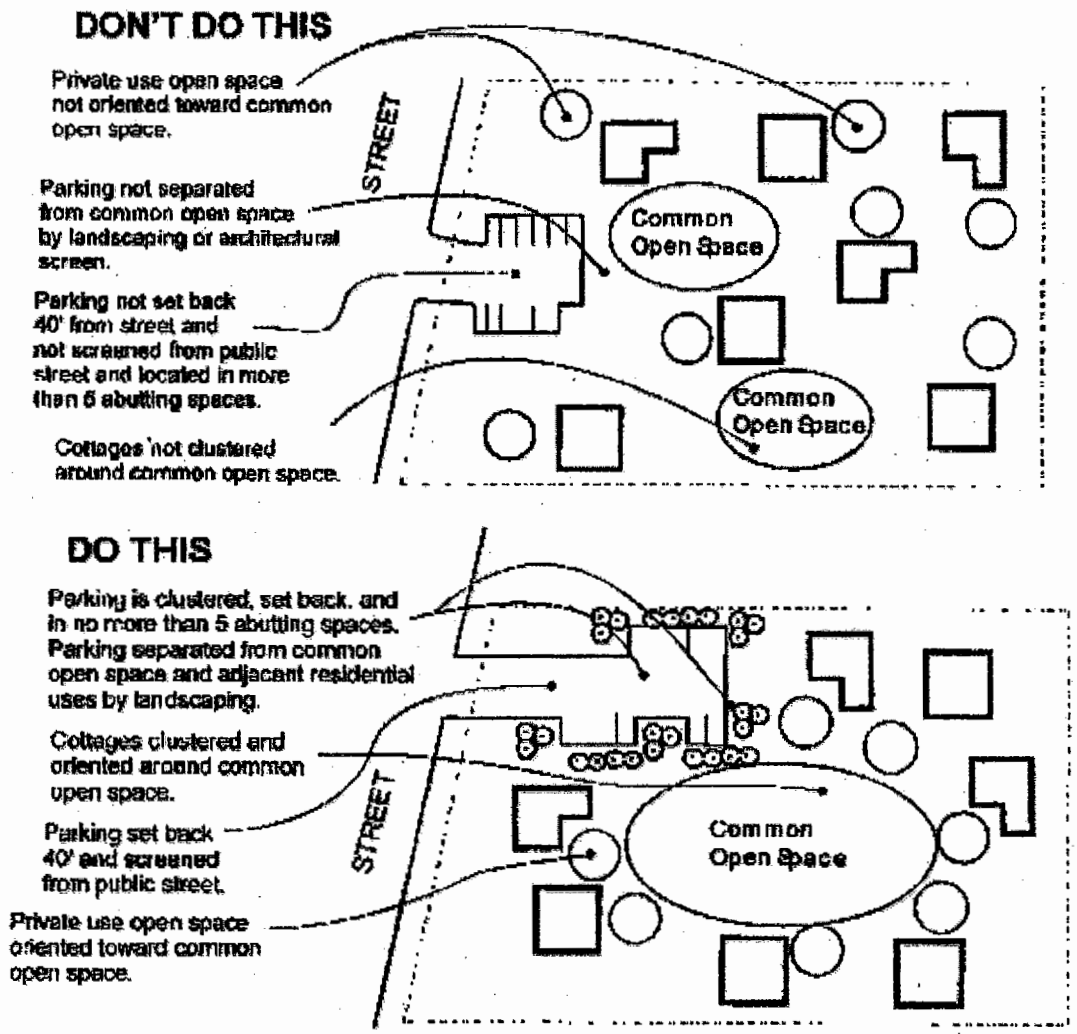

Figure 20.40.300: Avoid large clusters of parking, set back parking from the street, create functional common and private use open space, provide for screening of parking from cottages and common open space. The site should be designed with a coherent concept in mind.

(Ord. 321 § 1, 2003; Ord. 299 § 1, 2002; Ord. 238 Ch. IV § 3(B), 2000).

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b. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;

c. The granting of such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity. (Ord. 238 Ch. III § 7(a), 2000).

20.30.300 Conditional use permit-CUP (Type B action).

A. Purpose. The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. Decision Criteria. A conditional use permit shall be granted by the City, only if the applicant demonstrates that:

1. The conditional use is compatible with the Comprehensive Plan and designed in a manner which is compatible with the character and appearance with the existing or proposed development in the vicinity of the subject property;

2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

5. The conditional use is not in conflict with the health and safety of the community;

6. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;

7. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

8. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities. (Ord. 238 Ch. III § 7(b), 2000).

20.30.310 Zoning variance (Type B action).

A. Purpose. A zoning variance is a mechanism by which the City may grant relief from the zoning provisions and standards of the Code, where practical difficulty renders compliance with the Code an unnecessary hardship.

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CITY OF SHORELINE

Comparison of Cottages with Single Family Homes

	Cottage	Single-Family
Maximum Floor Area	**1,000 SF Each** (2,000 SF 2 Units)	**Typically 2,000 to 3,000 Sq. Ft.** (Limited only by Setbacks, Height, and Lot Coverage)
Building Height	**25 Feet**	**35 Feet**
Building Setbacks	**Average Side and Rear 10 Ft., Front 15 Ft.**	**Side 5 to 10 Ft., Front 20 Ft., Rear 15 Ft.**
Building Lot Coverage	**35%**	**35%**
Parking	**Requires 1.5 to 2 Stalls/Unit**	**Requires 2/Unit Allows 6/Unit**