

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

September 4, 2008
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

Commissioners Present

Chair Kuboi
Vice Chair Hall
Commissioner Behrens
Commissioner Broili
Commissioner Kaje
Commissioner Perkowski
Commissioner Piro
Commissioner Pyle

Staff Present

Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Associate Planner, Planning & Development Services
Flannary Collins, Assistant City Attorney
Renee Blough, Acting Planning Commission Clerk

Guest

Keith McGlashan, Shoreline City Council Member

Commissioners Absent

Commissioner Wagner

CALL TO ORDER

Chair Kuboi called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuboi, Vice Chair Hall, and Commissioners Behrens, Broili, Kaje, Perkowski, Piro and Pyle. Commissioner Wagner was excused.

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

Mr. Cohn announced that Mr. Tovar would not be present at the meeting. He said he would provide a full director's report after the rezone hearing.

APPROVAL OF MINUTES

The minutes of August 7, 2008 were accepted as amended.

GENERAL PUBLIC COMMENT

No one in the audience expressed a desire to address the Commission during this portion of the meeting.

PUBLIC HEARING ON JAMES ALAN SALON REZONE APPLICATION

Chair Kuboi reviewed the rules and procedures for the quasi-judicial public hearing and opened the hearing. He reminded everyone that the application before the Commission is a rezone application, and not an application for a specific project. He cautioned that projects are not approved at the rezone stage. Instead, rezones set the ground work for property owners to apply for development permits at a later date for specific projects. He reviewed the following five criteria the Commission would consider when reviewing the rezone application. He noted that the proposed rezone would change the subject property from Community Business (CB) to Regional Business (RB). If approved, any type of project that is a permitted use under the development standards for RB zoning could potentially be built on the site. He advised that the staff presentation would describe the CB and RB zones and identify the development standards that would apply to each one. He cautioned that all comments by the applicant and the public must address the rezone criteria, since these are what the Commission must base their recommendation on. He asked them to avoid discussing a specific project, as no specific project has been proposed for the site at this time.

Chair Kuboi invited all those who intended to provide testimony during the hearing (public and staff) to swear and affirm that their testimony would be the truth. He reminded the Commissioners of the Appearance of Fairness Laws and invited them to disclose any ex parte communications they may have received outside of the hearing. Commissioner Broili disclosed that he and Commissioner Behrens both received an email that was forwarded to staff and circulated amongst the Commission. He said he does not believe the email would influence his decision. Commissioner Behrens explained that because he read the email trail prior to reading the actual email, he chose not to read the document in question. He also noted that both his daughter and his wife have been regular customers at the James Alan Salon for many years. However, he does not believe this would prejudice his decision in any way. Commissioner Hall said he has not had any communications with the proponents or opponents during this current application period. However, he did speak with individuals following the Commission's 2007 action related to the subject property. He noted that because the proposal is different he does not believe this communication would have an impact on his decision. At the invitation of Chair Kuboi, no one in the audience expressed concern about any of the Commissioners participating in the hearing and recommendation process.

Staff overview and Presentation of Preliminary Staff Recommendation

Mr. Szafran provided a brief staff overview of the application. He displayed the Comprehensive Plan map, which identifies one of the subject parcels as mixed use and the other as community business. He

noted that the property owner also owns an adjacent parcel to the west that is not part of the rezone application. He displayed the zoning map, which shows that the two subject parcels are currently zoned Community Business (CB). He noted that surrounding properties are currently developed with a Verizon utility building, a Masonic Temple, a Fire Station, as well as retail, office, single-family homes and multi-family development. He provided pictures of the subject properties, as well as surrounding properties.

Mr. Szafran referred to the chart that outlined the difference in uses and development standards between the requested RB zoning and the existing CB zoning. He noted the major difference would be the number of residential units allowed. The RB zone would allow up to 110 units per acre, which would yield a maximum of 36 units on the subject properties. The current CB zoning would only allow 16 units. The RB zone would allow an additional five feet, as well. The setback requirement would be greater in the RB zone, but the amount of impervious surface allowed would also be greater. The uses allowed in the RB and CB zones are essentially the same, except vehicle sales, research, construction retail and warehousing uses are only allowed in RB zones.

Mr. Szafran reviewed that the applicant submitted a rezone application for the subject parcels in 2006. At that time the two parcels were zoned R-48 and Office, and the request was to change the zoning to RB. The Planning Commission recommended CB zoning, which was ultimately approved by the City Council in March of 2007. However, the following circumstances have changed since that time:

- When the 2006 application was reviewed, the Commission was also considering a proposed development code amendment to eliminate residential density caps in the CB zones that are within close proximity to Aurora Avenue and Ballinger Way. This development code amendment was later denied by the City Council. Therefore, the density in all CB zones is currently set at 48 units per acre.
- The City Council has indicated that they want to look closer at the maximum density permitted in RB zones. Currently, there is a moratorium on development in RB zones at residential densities greater than 110 units per acre.
- The Aurora Avenue Improvement Project will improve circulation near the Linden Avenue/185th Street/Aurora Avenue Corridors. He displayed a map to illustrate what these improvements would include.
- Transition area zoning was adopted by the City Council in May, which would apply to all commercial properties zoned CB, RB and Industrial (I) that are adjacent to single-family zones. However, these new zoning standards would not be applicable to the subject parcels.

Mr. Szafran reported that staff received 40 comment letters in support of the proposed rezone, and 2 that were opposed. Concern was raised that the subject parcels gain access from local streets rather than arterial streets, which is partially true. He explained that Linden Avenue north of 185th Street is categorized as a local street. South of 185th Street, Linden Avenue becomes a neighborhood collector street. However, he emphasized that 185th Street is an arterial street. Mr. Szafran said a suggestion was also made that higher buildings should be located along Aurora Avenue North, with a shearing effect

going down to the single-family residential zones. He pointed out that the current CB zone already allows a height of 60 feet, and the RB zone would only allow an additional 5 feet. He noted that circulation should improve when eastbound 185th Street is changed to provide two through lanes, as well as right and left turn lanes. Vice Chair Hall inquired if improvements are planned for westbound 185th Street as it approaches Aurora Avenue, and Mr. Szafran answered no. At the request of Chair Kuboi, Mr. Szafran reviewed how the proposed rezone would be consistent with the four rezone criteria.

- ***Is the rezone consistent with the Comprehensive Plan?*** Mr. Szafran said the proposed RB rezone would be consistent with Comprehensive Plan Land Use Element Goals I and V because a more intense commercial zone would promote redevelopment and allow for a greater mix of uses. In addition, RB zoning would permit a greater number of dwelling units or slightly more commercial space in close proximity to area services than the CB zoning would allow.
- ***Will the rezone adversely affect the public health, safety or general welfare?*** Mr. Szafran said staff does not believe the rezone would adversely affect the public health, safety or general welfare. He explained that the Comprehensive Plan designation allows for the level of development proposed, and the City's development standards for the RB zone would protect against uses that would be contrary to the public health, safety or general welfare. If the site is developed with residential uses, it could have a positive impact on public health. In addition, placing density closer to area amenities such as shopping, restaurants, and public transportation would encourage walking or biking rather than driving. He summarized that the proposed density would create better health opportunities than would the existing CB zoning.
- ***Is the rezone warranted in order to achieve consistency with the Comprehensive Plan?*** Mr. Szafran advised that both the RB and CB zoning designations would be consistent with the Comprehensive Plan vision for the area. Efficient use of land, higher densities in appropriate areas that are close to services and transportation, and an improved circulation pattern on 185th Street and Aurora Avenue North would support more intense development on the site.
- ***Will the rezone be materially detrimental to uses or property in the immediate vicinity of the subject rezone?*** Mr. Szafran suggested the proposed zoning would have minimal impact to the properties in the immediate vicinity. He noted that the two parcels have Mixed Use and Community Business land use designations, so commercial zoning is already appropriate. In addition, the RB and CB zoning designations are very similar, with RB zoning allowing for somewhat more intense commercial uses than does CB zoning. Staff believes that the more intense uses allowed in an RB zone would not likely locate on a relatively small site.

Mr. Szafran said another major distinction between the CB and RB zones is density. CB zoning would allow 16 units on the subject parcels, and RB zoning would allow up to 36 units. He said staff believes density should be located in areas that are less intrusive to the single-family neighborhoods, are in close proximity to amenities and transit, and are located on major collector and arterial streets that do not impact local streets.

Mr. Szafran said the height difference between RB and CB zoning is 5 feet. RB zoning could obtain a height of up to six stories, where a CB zone would most likely be limited to five. He suggested the multi-family zoning that surrounds the subject properties would provide a good transition so height would not impact the single-family zones.

Mr. Szafran said analysis shows that the heaviest traffic impacts would occur if the property were developed with offices uses. The likely impacts would be no different whether the site is zoned RB or CB. A building constructed under either zoning district would likely be a similar size because of parking constraints due to the cost of developing more than one level of underground parking.

- ***Will the rezone have merit and value for the community?*** Mr. Szafran said the proposed rezone would allow commercial and residential expansion to meet the changing needs of the community. He said recent actions by the City Council ensure that new buildings comply with transition area requirements, and the density of the RB zone is capped at 110 units per acre. When the previous application for RB zoning was submitted, there was no guarantee of a unit maximum on the site since there was no numerical density cap. With the 110 units per acre limit, the maximum number of units allowed on the site would be 36.

Mr. Szafran concluded his presentation by recommending the Commission approve the proposed RB zoning for the two subject parcels.

Commissioner Behrens pointed out that the RB density cap is only a temporary situation. He noted that, at some point, elements would be imposed on how RB zones could be developed. Therefore, even if the City were to grant a rezone to RB, they don't know exactly what the building requirements are going to be. Mr. Szafran agreed, but said the Commission must work with the zoning language that is currently in place.

Commissioner Behrens noted there are two very large developments taking place north of the subject parcels (Echo Lake and Market Place, and the City's housing and sustainability strategies suggest the Commission consider cumulative effects. He asked if staff has done any modeling or projected traffic studies to see how the proposals north of 185th on Aurora Avenue would impact the intersection. Mr. Cohn answered the traffic that was modeled as part of the Aurora Corridor Project was greater than the two large projects combined would generate. Commissioner Behrens summarized that the traffic modeling would assume a higher level of traffic than what is anticipated as a result of the two large developments.

Commissioner Behrens recalled that on previous occasions, the Commission discussed concern about piecemeal attempts to rezone properties. He asked how the density would be impacted if all three sites were rezoned to CB in a cumulative fashion. Mr. Cohn suggested that the zoning and ownership of the third parcel is not germane to the rezone application that is currently before the Commission. Commissioner Behrens said he was more concerned about zoning than ownership of the third parcel. He expressed concern about having a mixture of zoning on the three parcels. Mr. Szafran clarified that the Comprehensive Plan identifies the third parcel as Medium Density Residential, and CB zoning would not be consistent.

Applicant Testimony

James Abbott, James Alan Salon, advised that he is one of the property owners of the subject parcels. He said he supports the City's recommendation for approval of the RB rezone application. In response to Vice Chair Hall's earlier question, Mr. Abbott clarified that when the east side of Aurora Avenue was developed with the Gateway Plaza Project, 12 feet of right-of-way was dedicated to the City for widening 185th Street as part of the Aurora Corridor Project. He summarized that the Aurora Corridor profile would include six lanes, with a business access/transit lane in each direction. Mr. Abbott again said he supports the staff's recommendation to approve the proposed rezone application, and he offered to respond to any questions the Commission might have.

Questions by the Commission to Staff and Applicant

None of the Commissioners had further questions for the staff and applicant.

Public Testimony or Comment

Marlin Gabbert, Shoreline, spoke in favor of the proposed rezone. He expressed his belief that the proposed RB zoning would allow a greater density and some flexibility in terms of developing the property for the community good. He said the present zoning limits the residential density, but it doesn't limit the amount of office space. Under the current zoning, a potential developer could construct up to 60,000 square feet of office space on the parcels, as long as sufficient parking could be provided. He further explained that the large amount of office space allowed by the current zoning could result in a much greater traffic impact to the community. He referred to studies indicating that multi-family uses would have less traffic impact than office space. He said studies also show that residential densities support retail development better than office uses in the same area. He encouraged the Commission to recommend approval of the rezone because it would be better for the community. It would also provide a better transition between the high-density commercial and single-family residential uses.

Angie Sutphen, Shoreline, said she supports the proposed rezone application. The salon business has been located in the community for a long time, and she supports the opportunity for them to grow their business and create more business space that is within walking distance of the residential neighborhood. She also supports the creation of more apartment housing in the area.

Pearl Noreen, Shoreline, strongly urged the Commission to recommend approval of the proposed rezone because it supports the City's economic, sustainability and housing strategies. It also supports Shoreline's growth plan and is consistent with the City's Comprehensive Plan. She said that on three occasions over the last three years, she was part of a presentation to ask the City Council for funds to support the new Dale Turner YMCA. It seemed a logical request given that the cities of SeaTac, Monroe, and Sammamish had contributed \$1 million each to support new YMCA's in their respective cities. However, each time the Shoreline City Council turned down their request because there was no money available. If there is no money to support a non-profit project that would create 250 jobs, spend

\$19 million in construction dollars and create a space for 5,000 families to recreate, then the City is in a financial crisis. She pointed out that the City is in desperate need of revenue and tax dollars from new businesses. The City Council was willing to significantly reduce the gambling tax to ensure the sustainability of the casinos, so she questioned why they are not willing to rezone to attract new businesses. She summarized that rezoning brings money to the City.

Cindy Neff, Shoreline, said she was present to read a letter into the record that was written by the owner of Windermere Shoreline in response to the rezone application. The letter noted that the Windermere property is located directly across from the former James Alan Salon on Linden Avenue, and the salon has been an excellent neighbor for many years. The letter indicated support of the proposed rezone since it would be of great benefit to the whole community. It suggests that Shoreline is a growing City and needs to retain and attract well-respected businesses and employees. The letter noted the length of time the property has been vacant. It is currently in a deteriorated state, which is detrimental to the Windermere property and an invitation for vandalism. Secondly, the letters stated a concern about the apparent length of time it has taken for the applicant to obtain approval of the rezone. The City indicated that the reason for the delay was because a proposed code amendment could impact the subject properties. The letter pointed out that the proposed code amendment has been brought before the City Council four times with a recommendation of approval by both the Planning Commission and City staff. Each time, the City Council has sent the matter back to the Planning Commission for further study. The letter concluded that the process is taking an inordinate amount of time. The letter summarized that the subject parcels are an ideal location for the intended purposes, and the rezone should be approved without further delay. In addition to the letter supporting the proposed rezone, Ms. Neff indicated her support of the proposed change, too.

Vice Chair Hall said his understanding is that this is a different application than what was submitted and approved two years ago. Mr. Szafran said the new application was submitted July 24, 2008. However, it is identical to the application that was submitted in 2006. Commissioner Pyle suggested that Ms. Neff may have been confused because the notice referred to the adoption of a previous SEPA determination that was made in 2006. He explained that under Washington State Law, the City is allowed to use a former Determination of Non-Significance. In this case, instead of redoing SEPA, the City chose to simply use the old analysis that considered all the environmental factors at the time.

Les Nelson, Shoreline, said he read through minutes of the 2006 and 2007 Planning Commission hearings at which the subject parcels were discussed. He recalled that RB zoning was deemed inappropriate for the parcels, and the Commission recommended CB zoning, instead. CB zoning would limit development to 48 dwelling units per acre. Mr. Nelson suggested that none of the conditions evaluated in 2007 to arrive at the CB recommendation have changed, so he questioned why staff is now recommending RB zoning.

Mr. Nelson clarified that no Comprehensive Plan amendment was required to rezone the subject parcels to CB, with the associated limitation of 48 dwelling units per acre. However, he suggested a Comprehensive Plan amendment to change the land use designation to Regional Business would be required to change the zoning to RB. He said he also disagrees with staff's decision to resurrect a two-year-old SEPA application that accompanied a previous rezone application. While a decision was made

previously, it is important to recognize that the public has changed and they are addressing different issues related to sustainability, etc. Mr. Nelson said he tried to find notice of the public hearing on the City's website, but it was very difficult to locate. He suggested they address this issue since the problem seems to come up over and over again. The hearing should have been included in the list of public meetings that were scheduled for the month.

Boni Biery, Shoreline, said she has lived just one block from the subject parcels for the past 43 years. She agreed that the James Alan Salon has been a very good neighbor. However, she has some concerns about the proposed rezone and the staff report's implication that unless the rezone is approved, there would be no increase in housing opportunities, businesses, etc. She pointed out that, currently, the property is developed with an empty home and an empty business, and the existing CB zoning would allow the property to develop with a mixture of uses that would provide additional housing and tax revenue for the City. The proposed RB zoning would allow the same type of development, but at a greater density. She expressed her belief that RB zoning would be too intense given that the subject parcels are only one block away from single-family residential development. She said she has tried to get the City to address traffic concerns in her neighborhood for the past six years, but they do not have a way to solve the problems. She said there is no reason to assume that established habits of using Linden Avenue North and Firlands Way as cut-through streets to get to the park and ride, Aurora Village, Fred Meyer, etc. would change. In terms of sustainability, she noted that the subject parcels are at the very crest of the Boeing Creek drainage basin, and increasing impervious surface by 10% would have an impact on all downstream properties.

Jack Malek, Shoreline, said he is a local area realtor. He said he supports the staff's recommendation to rezone the property to RB. The new zone would be consistent with the City's current economic strategy. In addition, it would allow the City to accommodate their growth targets. The subject parcels are close to the Aurora Corridor, where transit and other opportunities are available to support growth.

Tyler Abbott, Shoreline, said he is one of the applicants for the proposed rezone. He referred to the question that was raised earlier about the timing of the initial rezone application. He explained that the property owners originally attempted to rezone the property to RB, but when the application was presented to the Planning Commission, staff changed their recommendation from RB to CB in light of code amendments that were being considered. The intent was that the new zoning code would meet the applicant's requirements, but would not allow unlimited density. The applicant supported the staff's recommendation, but if they had known the outcome of the proposed code amendments, they would have stuck with their original request for RB zoning. Mr. Abbott advised that a traffic study was completed as part of their building permit application, and there would potentially be 12 more daily trips if the property were developed as RB as opposed to CB. He summarized that likely development under the current CB zone would create more traffic since office and business uses would not be limited and they typically generate more traffic than multi-family uses.

Final Questions by the Commission

Commissioner Kaje asked staff to clarify State Law related to reusing SEPA. Ms. Collins explained that SEPA Determinations do not become stale. She noted that the previous application was for RB zoning,

and the new application is for the same. However, because the density allowed in an RB zone is now lower, the impacts would be less. She concluded that the existing SEPA Determination would still be applicable because it analyzed the impacts for an RB rezone that had unlimited density. She said staff determined there were not sufficient changes to warrant a new SEPA analysis. Mr. Cohn added that because SEPA doesn't go stale and none of the impacts have changed, there would be no reason to disclose additional impacts. Whether or not the original SEPA determination was appealed has nothing to do with why it is being used for a second time.

Commissioner Pyle pointed out that SEPA would still be required at the time of building permit application. The current SEPA Determination is a non-project action. Mr. Cohn agreed and added that once a building permit application has been submitted, staff would be able to identify impacts and necessary mitigation associated with a specific project. Commissioner Piro clarified there has been no changes in SEPA requirements or other factors that would warrant a new SEPA Determination. Mr. Cohn pointed out that the City regulations have changed, and this was reflected in the SEPA Checklist, but SEPA requirements have not changed.

Commissioner Piro summarized that the existing CB zoning would allow 16 dwelling units on the subject parcels, and the proposed RB zoning would allow up to 36. He asked staff to speak about this difference in the context of the City's current ability to meet their growth targets for accommodating housing. Mr. Cohn answered that the current growth targets would not require any changes to the current Comprehensive Plan designations. However, this assumes the City would not always apply the lowest zoning designation to each Comprehensive Plan designation area. He added that regardless of the growth targets, they know the City will continue to grow. If growth is to happen, the Commission has previously agreed that the additional density should be located close to areas that are well served by transit and other infrastructure.

Commissioner Pyle recalled that one concern is that the amount of impervious surface would increase from 85% to 95% if the rezone application is approved. He noted that the City is close to adopting a new stormwater manual. He questioned if any changes are expected in the new manual that would better detain and treat stormwater on site than what the current manual allows. If the objective of the new manual is to retain and treat stormwater on site without conveyance and to work towards watershed planning, he would feel more comfortable agreeing to a rezone that would increase the amount of impervious surface. Mr. Cohn said the proposed manual would suggest the City move in the direction described by Commissioner Pyle. However, the new manual would not likely be adopted until at least February 2009. With or without a change in zoning, any application submitted before adoption of the new manual would be vested under the existing stormwater requirements.

Commissioner Pyle emphasized that several more intense uses would be allowed in an RB zone than in a CB zone. Mr. Cohn agreed and noted that these differences are identified in the staff report, as well. He expressed his belief that given the parcels are located more than a block away from Aurora Avenue North, many of the additional uses allowed in an RB zone would not likely occur because there would not be sufficient traffic to support the uses.

Commissioner Pyle suggested that if staff wants to avoid considering potential projects as part of rezone applications, they should avoid naming particular types of development such as the James Alan Salon. To narrow the discussion, he suggested the staff report avoid referring to issues that are not pertinent to the conversation. Mr. Cohn agreed that would be appropriate.

Commissioner Pyle referred to Table 20.50.020.2, which addresses the dimensional standards associated with the RB and CB zones. The RB zone allows for greater height, but it requires greater setbacks from residential zones. However, the impervious limitation is stricter in the CB zone. He suggested that with creative options, a developer could potentially construct a bulkier building under the current CB zone that has more perceived impact to the community than the RB zone. The number of units constructed inside of a box would not ultimately change the size of the box. The size of a building would be driven more by market forces. Mr. Cohn agreed that market forces would drive the size of a building, and this would be true for both residential and office/retail uses.

Commissioner Pyle expressed his belief that while it is a property owner's right to apply for a rezone, it doesn't seem like it is the right time to rezone the property, especially given the current turbulence associated with the RB zone. He expressed concern that the Commission is essentially considering a rezone of a parcel to RB when they don't know the fate of the RB zone. Commissioner Piro cautioned that the goal of the moratorium is not to freeze redevelopment in RB zones. Instead, it establishes a limit of 110 dwelling units per acre. As the zoning code currently exists, the rezone would allow up to 36 dwelling units on the subject parcels, and the current zoning only allows 16. In addition, there are marginal differences in height, setbacks, uses, and impervious surface. He expressed his belief that it is legitimate for an applicant to request a rezone to RB as it currently exists in the zoning code. Ms. Collins agreed that the applicants have every right to apply for a rezone to RB, based on the interim regulations that are currently in place. Whatever changes are made to the RB zone in the future would apply to all properties that are zoned RB, including the subject parcels. Ms. Collins said the Commission must act on the rezone application based on the interim regulations and not based on what they may be at some future point in time.

Commissioner Broili asked if it would be appropriate for the Commission to place a condition on a rezone. Ms. Collins said the City no longer does contract rezones with conditions.

Deliberations

COMMISSIONER PIRO MOVED THE COMMISSION RECOMMEND APPROVAL OF THE APPLICATION TO REZONE THE SUBJECT PARCELS TO REGIONAL BUSINESS AS PRESENTED IN THE STAFF REPORT. COMMISSIONER HALL SECONDED THE MOTION.

Commissioner Piro said he supports the findings of fact found in the staff report, as well as the recommendations made by staff during their presentation. He agreed there are some distinctions between the RB and CB zoning designations. For example, RB zoning would allow for additional dwelling units, which could potentially create more impact to surrounding properties. On the other hand, it would help the City provide additional dwelling units within close proximity to Aurora Avenue

North where transit and other infrastructure is available, and this is consistent with stated City goals. In addition, allowing more units in this area would take pressure off of other areas in the community. He said he appreciated the attention both Commissioner Pyle and Commissioner Broilli brought to the issue of impervious surface, and that is a concern of his, too. However, he expressed his belief that having something that is more compact and tight on the site could potentially result in less impervious surface than scattering the 36 dwelling units in other locations throughout the City. He said he plans to support the rezone as proposed.

Vice Chair Hall agreed with Commissioner Piro's comments. He reminded the Commission that they no longer have the ability to recommend that conditions be placed on a rezone. In addition, conditions surrounding the subject properties have changed since the original rezone application was reviewed. He recalled that a few citizens voiced concern about traffic impacts, and he agreed that traffic would continue to be a concern as the City grows. He expressed his belief that the more units that could be constructed in close proximity to transit opportunities, the less impact there would be on the existing network of streets as whole. However, he agreed that those living adjacent to the subject properties would suffer a disproportionate impact. He emphasized that as they approach development in the future, it will be critical to slowly move away from the idea that everyone would drive a car. Instead, they must have alternatives in place. Therefore, he said he plans to support the proposed rezone.

Commissioner Behrens said he would likely support the proposed rezone. He noted that the CB and RB zoning designations are very similar, and the bulk of a potential development would not be significantly different in either zone. He said he likes the fact that an RB zoning designation would require a 15-foot setback adjacent to single-family zones. While it would not be required, he suggested it is probable that this setback area would likely include plantings and grass strips. If you compare the 90% impervious surface allowed in a CB zone with 95% allowed in an RB zone and then include the 15-foot setback area, the difference would be even less. He referred to the developments that are currently taking place to the north and said he is counting on the City staff to thoroughly consider the traffic impacts and come up with a good plan.

Commissioner Kaje reminded the Commission that when they review an application to determine its consistency with the Comprehensive Plan, they must balance the various element and issues addressed by the Comprehensive Plan. He expressed his belief that with this application, as well as a few others that have come before the Commission, it appears that staff has cherry picked the goals that happen to jive with their recommendation, but a similar effort was not given to looking at what goals might be in conflict. If the Commission is to balance the various elements and goals of the Comprehensive Plan, the staff report should provide a list of all the goals and identify which ones are consistent with the application, and which ones are not. He pointed out that in order for the Commission to consider the rezone proposal without reviewing a specific project, they must carefully consider whether or not all of the uses that would be allowed in the RB zone are consistent with the Comprehensive Plan. Commissioner Kaje referred to Comprehensive Plan Land Use Goal 84, which requires the Commission to consider and evaluate the immediate, long-range and cumulative environmental impacts of policy and development decisions. While a SEPA review was conducted on the proposed rezone, he is not sure they've had a full vetting of the balancing of goals.

Commissioner Broili said that based on the information provided in the staff report regarding the site, location, arterials, etc., he felt RB zoning would be appropriate. However, he is concerned that because the updated stormwater code would come later, whatever development is proposed on the site would not be subject to the more stringent standard. He is greatly bothered when he sees potential new development or redevelopment that is not bound by the more stringent approach to stormwater management and other environmental controls.

Commissioner Perkowski said he plans to support the proposed rezone application because he believes the subject properties are an excellent location for RB zoning. He said he agrees with the comments put forth by Commissioner Piro and Vice Chair Hall.

Chair Kuboi said he would be inclined to support the rezone application, as well. He recalled that he was the chair of the Housing Strategy Committee, and one of the mantras coming from that discussion was the need to increase the amount of flexibility as to what projects could be built on a site. The proposed rezone would expand the flexibility to provide more housing options. He reviewed that a number of comments spoke about the merit and value the rezone would provide to the community. He referred to Commissioner Kaje's comments regarding the need for the staff report to provide a more thorough review of all of the potential uses that would be allowed by the rezone. However, he voiced his concern that these types of actions often need to be looked at from the perspective of the likely outcomes as opposed to worst case scenarios. The staff report offered some perspective as to how future development would be limited by the parking and other requirements. He summarized his belief that the likely development outcomes would provide an overall benefit to the community and be consistent with the Comprehensive Plan.

Vote by Commission to Recommend Approval or Denial or Modification

THE MOTION TO RECOMMEND APPROVAL OF THE REZONE APPLICATION AS PROPOSED IN THE STAFF REPORT WAS APPROVED 5-1-2, WITH CHAIR KUBOI, VICE CHAIR HALL, COMMISSIONER PERKOWSKI, COMMISSIONER BROILI, AND COMMISSIONER PIRO VOTING IN FAVOR, COMMISSIONER KAJE VOTING IN OPPOSITION, AND COMMISSIONER PYLE AND COMMISSIONER BEHRENS ABSTAINING.

DIRECTOR'S REPORT

Agenda Planner

Mr. Cohn referred the Commission to the agenda planner that outlines the meeting agendas for the remainder of the year. He noted that the September 18th agenda would include a public hearing and a study session on the Stormwater Development Code amendments. He cautioned that while the Commission would review the draft amendments, the public hearing would not be scheduled for at least a month and a half later. He said the September 18th agenda would also include a subcommittee report regarding design review. He noted that a semi-annual joint meeting between the Planning Commission and City Council has been scheduled for September 22nd, at which point there will be some discussion

regarding the visioning process and what role the Commission would play. There would also likely be some discussion about design review and the proposal to have the Hearing Examiner review most quasi-judicial items. Commissioner Broili announced that the Design Review Subcommittee would meet on September 16th, in preparation of the Commission's September 18th discussion.

Mr. Cohn pointed out that while the regular Commission meetings have been cancelled for the month of October, Commissioners have been invited to attend and participate in public meetings associated with the visioning process. He noted that a public hearing on the Stormwater Development Code amendments has been scheduled for November 6th, assuming the Commission is comfortable moving forward after their September 18th meeting. Also on November 6th, the Commission would conduct a study session on Package 2 of the Development Code amendments. On November 20th, the Commission would review the City's Shoreline Master Program. An open house would likely be held at 6:00 p.m. followed by the Commission's study session.

Design for Livability Conference

Mr. Cohn advised that staff has already signed up Commissioners Perkowski and Kaje to attend the Design for Livability Conference, and they recently received two free tickets from the Cascade Lands Conservancy that are available to other Commissioners who are interested in attending. Commissioner Broili indicated his desire to attend the conference.

UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

NEW BUSINESS

Follow-Up on Proposal to Have Hearing Examiner Review Most Quasi-Judicial Items

Mr. Cohn reminded the Commission of their retreat discussion about moving quasi-judicial hearings to the Hearing Examiner. The Commission agreed this would be a good idea due to their present workload. Mr. Cohn advised that Mr. Tovar is still quite convinced the Commission's 2009 workload would be significant, but it has not been entirely mapped out. Mr. Tovar suggested the Commission discuss this possibility with the City Council, but wait to make a final recommendation to the City Council until after the 2009 workload has been laid out later in 2008.

Vice Chair Hall pointed out that had the City Council chosen to place quasi-judicial hearings in the Hearing Examiner's hands, the previous hearing would have been conducted before the Hearing Examiner. Everyone would have had a full opportunity to participate, and notice would be given, but he suggested it might be more appropriate for the nine-member Commission to decide whether or not an application has value and merit to the community. He said he still has significant reservations about telling the community that quasi-judicial matters would be heard by an attorney who is hired by the City. Commissioner Broili agreed with Vice Chair Hall's concern, but he questioned if these values would be better addressed by the code and regulations that are put forward by the Planning Commission.

Vice Chair Hall agreed that is a good question, but he recalled earlier discussions amongst the staff and Commission about the fact that the current zoning regulations are flawed, and fixing the flaws is important. While he agreed with staff that there is a lot of work for the Commission to do, he is not convinced that the Commission's workload limitation should be the only factor considered. They must also keep in mind the City's budget.

Commissioner Pyle pointed out that he would likely have been prepared to vote on the previous rezone application if the Commission had taken the time previously to review the code language and determine what they want to see in RB zones. He expressed concern that the Commission does not have enough time to work on the actual zoning issues before them, yet they are being asked to rezone properties to zones that are unclear and in constant fluctuation. He said he sees the value of sending quasi-judicial hearings to the hearing examiner for one year so the Commission can focus their effort and time on rewriting some sections of the code. Then they would be better prepared to assume this responsibility again.

Chair Kuboi agreed with Commissioner Pyle. However, before the Commission could present this recommendation to the City Council, they must be able to show them how they would use time that is freed up. In addition to focusing on what the Commission would give up, they should also spend time articulating the specific benefits of the change. Even if the Commission's time is freed up, they must consider whether or not the Commission would be ultimately constrained by the limited amount of staff time and resources. He said it might not be appropriate to discuss this concept with the City Council until their 2009 work plan has been developed to support the change. Commissioner Piro recalled that the Commission discussed that they would still handle some quasi-judicial items, but this list was never adequately defined. He agreed the Commission must articulate the issues better before they discuss the idea further with the City Council.

Commissioner Behrens recalled that at the previous joint City Council/Planning Board meeting, a City Council Member suggested they consider a system by which they use a rotating pool of hearing examiners, and he felt this proposal had some merit.

Commissioner Broili respectfully disagreed that the Commission should discard the discussion of having the hearing examiner review most quasi-judicial items. If the Commission has to continually conduct rezone hearings, they would have less time to establish a good Development Code foundation. Their proposal to the City Council should identify the priorities and goals they want to achieve in 2009, as well as the steps that would be necessary to accomplish each one.

Chair Kuboi clarified that he was suggesting the proposal be taken off the joint City Council/Planning Commission meeting agenda until they have more concrete information to present as part of their proposal. Commissioner Broili suggested the Commission at least make a brief statement outlining their proposal and why they feel it is appropriate. This would not require a detailed discussion, but they should let the City Council know that it is an important issue to the Commission. Commissioner Perkowski suggested they invite the City Council to review their 2009 workload and identify any items they want the Commission to address, as well. They could also ask the City Council to provide guidance as to how they should prioritize the workload.

Vice Chair Hall said it is likely the City Council would indicate their desire to hold off on any decision until after the visioning process has been completed. He expressed his belief that a vision must be identified before appropriate codes could be created to provide a strong foundation. He suggested that once the visioning process is completed, it might be easier for the Commission to prioritize their 2009 workload.

Chair Kuboi summarized the Commission's consensus that they would like to have an active role in determining where their newfound time would be directed in the future. Much of their support for the concept would be based on whether or not the change would allow the Commission to better accomplish their goals and objectives.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

None of the Commissioners provided reports during this portion of the meeting.

AGENDA FOR NEXT MEETING

Chair Kuboi announced that the September 18th agenda would include a review of the proposed Stormwater Development Code amendments and a subcommittee report on design review.

Commissioner Piro asked if the staff has had any interaction or participation with the work underway with the Puget Sound Partnership. Mr. Cohn said staff would respond to this question at the Commission's next meeting.

ADDITIONAL PUBLIC COMMENTS

Boni Biery, Shoreline, referred to the rezone proposal that was heard by the Commission earlier in the meeting. She said she doesn't have a problem with the proposed Regional Business (RB) zoning if the density was limited to 48 units per acre, but the current RB language allows up to 110 units per acre. She said she is not opposed to density up to a reasonable limit. She pointed out that Echo Lake Project was limited to about 90 units per acre, and this property is located directly across the street from a park and ride. The rezone proposal that was presented to the Commission earlier in the meeting would result in a potential 110 unit per acre development just one block from her house and on a residential street that already has more traffic than the City can control. She summarized that the circumstances are unique, and the City has not been able to find a way to deal with the traffic.

Ms. Biery questioned why everyone was held to only two minutes of public comment when there was plenty of time left after the meeting. The limit meant she and others had very little opportunity to say the things that could have been said that might have changed the Commission's recommendation. She noted that she has no recourse now that the Commission has issued their recommendation.

Commissioner Piro said one of the most valuable ways to participate in the public process is to submit comments to the Commission in writing. These documents are forwarded to the Commission for review

prior to the hearing. Commissioner Broili pointed out that it is difficult for the Commission to know at the beginning of a hearing how long the testimony will go on. The Commission has had numerous occasions when they have stayed until long after the time the meeting was supposed to be closed. This has created frustration because they didn't have enough time to accomplish everything. Vice Chair Hall pointed out that the Commission received and reviewed the email that was submitted by Ms. Biery, as well as other written comments that were received. Ms. Biery said her concern is that once a property is rezoned, neighboring property owners have no control over how the property is used. While she agreed that the James Alan Salon has been a good neighbor, some of the uses allowed in the RB zone might not be appropriate in this location.

Commissioner Behrens said that each time the Commission reviews a proposal, they consider the issue of traffic. He agreed that the intersection near the subject properties is one of the most congested in the City, and they do not have good traffic corridors in the City. He suggested the Commission ask the City Council to consider long-term traffic solutions as part of the visioning process. Traffic impacts must be addressed, and the public should be encouraged to voice their concerns and recommendations. He recognized these changes would take time and cost a lot of money, but changes should take place in an organized fashion.

ADJOURNMENT

The meeting was adjourned at 9:26 P.M.

Sid Kuboi
Chair, Planning Commission

Renee Blough
Acting Clerk, Planning Commission