

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

March 20, 2008  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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### **COMMISSIONERS PRESENT**

Vice Chair Kuboi  
Commissioner Wagner  
Commissioner Phisuthikul  
Commissioner McClelland  
Commissioner Harris  
Commissioner Hall (left at 8:20 p.m.)

### **STAFF PRESENT**

Joe Tovar, Director, Planning & Development Services  
Paul Cohen, Senior Planner, Planning & Development Services  
Jessica Simulcik Smith, Planning Commission Clerk

### **COMMISSIONERS ABSENT**

Chair Piro  
Commissioner Broili  
Commissioner Pyle

### **CALL TO ORDER**

Vice Chair Kuboi called the regular meeting of the Shoreline Planning Commission to order at 7:08 p.m.

### **ROLL CALL**

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

### **APPROVAL OF AGENDA**

The Director's Report was moved to after the public hearing. The remainder of the agenda was approved as presented.

### **APPROVAL OF MINUTES**

Approval of the minutes of March 6, 2008 was deferred to the next meeting. The Commission asked staff to review the minutes and clarify the use of the terms "applicant" and "applicants" and "property" and "properties".

## **GENERAL PUBLIC COMMENT**

**Joseph Irons, Shoreline**, expressed concern about the traffic impacts to his neighborhood street, Ashworth Avenue North, which is a residential street. They haven't seen good result from the neighborhood traffic safety program that was recently implemented. As more development occurs in the area, more traffic would come through the street. He asked that the City take more steps to make the street safer. Mr. Tovar suggested the Commission request a written report from the Public Works Department regarding Ashworth Avenue. Mr. Irons shared that the neighbors have continually worked with the Public Works Department, but the programs they have implemented have not improved the situation. In fact, the light that was recently installed actually seems to have made the situation worse. He noted that several of his concerned neighbors were in the audience, as well.

Mr. Tovar clarified that the Planning Commission does not have a roll in resolving rights-of-way issues. These matters are handled by the Public Works Director, the City Manager, and the City Council. Commissioner McClelland pointed out that while the Commission is interested in learning about residual affects on a neighborhood street as the result of a change, they do not have the authority to resolve the problems.

**Les Nelson, Shoreline**, recalled that for the past six months he and others have come before the Commission to explain how they interpret the relationship between the Comprehensive Plan and the zoning code, particularly regarding the concepts of unlimited density, regional business and community business. Apparently, the City Council agreed with his interpretation because they created a moratorium over night, which doesn't typically happen unless there is a real issue that needs to be addressed. The interpretations the City has been making over the years are based on the assumption that the code is law. He expressed his belief that just because a City passes something by ordinance, doesn't mean it can't be tested and found to be out of compliance with the Comprehensive Plan. According to the Growth Management Act, this could make the code invalid and require the City to make changes. He expressed his interpretation that the concept of unlimited density is inconsistent with the Comprehensive Plan.

Mr. Tovar agreed that if a citizen feels the Development Code and the Comprehensive Plan are inconsistent, an appeal could be filed to the Growth Management Hearings Board. However, the law was carefully constructed by the legislature so that the appeal period to allege non-compliance or lack of consistency is opened when the local government publishes notice of the action and closes 60 days later unless an appeal has been filed. So the actions that Mr. Nelson referenced cannot be challenged by the Growth Management Act. He summarized that anything the City Council adopts by ordinance (amendments to the code or to the plan) is subject to an appeal, but it has to be filed within 60 days of when the action was taken and would be limited to individuals of standing (people who provided comments in writing or verbally to the Planning Commission and City Council). He expressed his belief that the proposed amendments would be consistent with the current Comprehensive Plan.

Mr. Nelson pointed out that if a code regulation was never adopted through the comprehensive plan amendment process, one could argue that the 60-day clock never was started. Mr. Tovar agreed that if the City adopts an ordinance without publishing notice of the change, there would be no limit on the appeal period. Commissioner Wagner asked how this would impact the moratorium that was put in

place by the City Council. Mr. Tovar explained that the Growth Management Act has a special provision for moratoriums and interim controls, which is what the City currently has in place. If no amendments have been adopted by the time the moratorium expires at the end of April, the code would revert back to the way it was previously.

### **PUBLIC HEARING ON CODE AMENDMENTS TO REPLACE MORATORIUM (INTERIM REGULATIONS) IN CB, RB, AND I ZONES**

Vice Chair Kuboi reviewed the rules and procedures for the legislative public hearing to consider code amendments to replace the moratorium (interim regulations) in the CB, RB and I zones. He noted that because the notice for the hearing did not meet the City's requirement, another public hearing would be conducted on April 3<sup>rd</sup>. Those who speak tonight would also be allowed to speak at the next hearing. However, he asked that those who do speak twice limit their comments to new observations. He emphasized that the Commission would not deliberate and make a recommendation to the City Council until after the second public hearing has taken place.

### **Staff Overview and Presentation of Preliminary Staff Recommendation**

Mr. Cohen reviewed the staff report. He advised that the code amendments were instigated by a moratorium that was passed by the City Council in October of 2007. The purpose of the moratorium was to stop all residential development in CB, RB and I zones that are located within 90 feet of the R-4, R-6 and R-8 zones. The moratorium was later amended to exclude proposals that are less than 40 feet above the average elevation of the shared property line. He recalled that there was quite a bit of neighborhood concern about a proposed development on 152<sup>nd</sup>, and the City Council responded by passing the moratorium until the issues and concerns could be addressed. Staff agreed there were not enough requirements to address the impacts of intensive development adjacent to single-family zones. He referred to the proposal that was prepared by staff to address the transition area requirements, keeping in mind that as subarea plans are created later on, the transition areas would be further refined.

Mr. Cohen reviewed the Comprehensive Plan goals and policies that support transition area requirements. Housing Goal H III talks about new development that is compatible in quality, design and scale within neighborhoods and that provides effective transitions between different uses and scales. Housing Policy H28 talks about having effective transitions between substantially different land uses and density. There is also policy support to require appropriate building and site design, landscaping, and design features to make the more intense uses more compatible with the single-family residential neighborhoods.

Mr. Cohen reviewed that the proposed amendments would delete a section in SMC 20.50.020 which allows R-48 zoning adjacent to single-family to reach heights of 50 and 60 feet. In addition, new language would be added to both SMC 20.50.020(2) – Exception 2 and SMC 20.50.230 – Exception 4. He referred the Commission to Attachment C, which outlines the proposed code amendments. He advised that since the last meeting the City Attorney recommended some changes to clean up redundancy in language. In addition, the Planning Commission asked staff to define or simplify the

terms “buffer,” “setback,” and “inset.” The new language relies on the terms “transition area” and “setbacks” as a way to describe the concept proposed in the new language.

Mr. Cohen reviewed the following elements of the proposed language as follows:

- **All development in commercial CB, RB or I zones abutting to or across a street right-of-way from single-family zones R-4, R-6 and R-8 shall meet transition requirements.**
- **For these commercial zones abutting to or across the street right-of-way from R-4, R-6 , and R-8 zones, transition areas allow a 35-foot maximum building height at the required setback and a building envelope within a 2 horizontal to 1 vertical slope up to the maximum building height for the commercial zone.**
- **In addition to setbacks, building facades abutting R-4, R-6 and R-8 zones must have setbacks for every 50 horizontal feet of façade. The setback must be a minimum 800 square feet of open ground with a minimum 20-foot horizontal dimension.** *Mr. Cohen advised that the intent of requirement is to break up the potential massiveness and bulk of a residential/commercial building that abuts a single-family residential zone. He advised that originally, the moratorium was only for residential development in the zone, but staff felt the requirements should be extended to all types of development in these zones.*
- **Transition area setbacks shall contain Type I landscaping along property lines abutting R-4, R-6 and R-8 zones and Type II landscaping along property lines with right-of-way across from R-4, R-6 and R-8 zones. A solid, 8-foot high fence shall be placed on the abutting property line. Patio or outdoor recreation areas are allowed up to 20% of buffer area and no less than 10 feet from abutting property lines if Type I landscaping can be effectively grown. Required tree species shall be selected to grow a minimum height of 50 feet. The option for a written agreement with the abutting property owners to delete or substitute tree varieties must be offered by the developer and submitted to the City. The entire length and 20-foot wide landscape area shall be a recorded easement that requires plant replacement as needed to meet Type I landscaping. No utility easements can encroach into the landscaping requirements.** *Mr. Cohen advised that the last four sentences were added at the request of the Commission. He recalled that at their last meeting, they expressed concern about whether an evergreen Type I screen would be maintained and replanted to maintain an effective screen. He said concern was also raised that crucial landscaping could be compromised in some situations when there is a utility easement that requires no obstructions. Staff is suggesting that the buffer not be allowed to compromise the easement. This would require an applicant to either move the buffer further back or place it on the other side, but they would not be allowed to diminish the size of the buffer area. A Commissioner also suggested that a developer be allowed to enter into an agreement with abutting single-family property owners to delete or substitute tree varieties. The language proposed by staff would require the developer to approach the neighbor, asking if the proposed landscaping would be okay or if something else would work better for them. The proposed language would also ensure that the tree species planted would provide effective screening and reach a minimum of 50 feet of mature height.*

Mr. Cohen provided a cross section drawing showing how the proposed language would be applied to a commercial (RB, CB or I) zone that is both abutting and across the street from a single-family zone. He pointed out that the chances of this occurring on the street side is quite slim because there are only four RB, CB and I zoned properties in the City where there is single-family both across the street and behind. He also provided a drawing of a computer generated building that could potentially be located on the property at 152<sup>nd</sup> and Aurora Avenue based on the proposed amendment. The drawing identifies a landscape buffer, a 20-foot setback, a building starting at 35 feet in height, cut ins, and a 2:1 slope up to the maximum height of 65 feet. There would be no stepback required on the street side because the other side of the street is not zoned R-4, R-6 or R-8. He suggested that the drawing represents the type of development that could potentially occur on most of the parcels highlighted on the map. He provided pictures to illustrate the view of the building from various locations around the property.

### **Questions by the Commission to Staff and Applicant**

Commissioner Phisuthikul asked what would happen if a piece of commercial property borders two zones, one being residential and one commercial. Mr. Cohen answered that a transition zone would only be required for the portions of property that directly abut a single-family zone.

Commissioner McClelland suggested it is important to differentiate between a single-family use and a single-family zone. The proposed amendments apply to properties that abut single-family zones, and this should be made clear. The remainder of the Commission concurred. Commissioner Phisuthikul suggested it also be made clear that the term “single-family zone” refers to R-4, R-6 and R-8 zoned properties. Mr. Tovar agreed.

### **Public Testimony or Comment**

**Brent Spillsbury, Shoreline**, said he lives on Stone Avenue and about 100 yards diagonally from the new building that is being proposed on the Overland Trailer Park property. Right now he can look out his window and view trees. While it appears the City is trying to create code language that is more acceptable, the proposed amendments could still result in large, massive buildings. A 240-unit development across the street from him would have a significant impact, and that is not something he ever contemplated when he moved to the City. While new trees would be required for screening, it would take 20 years for them to reach a reasonable height. He suggested they require larger trees from the start. He also suggested a 40-foot building height limit would be a more reasonable standard. Allowing a 60-foot high building seems inappropriate next to small residential homes. He suggested the City take into account that, right now, there are no three-story buildings in their neighborhood. He said he would like the Commission to work on the document more, but they are going in the right direction.

Commissioner Wagner asked if Mr. Spillsbury is concerned about the number of people that would move into the neighborhood or is he more concerned about the visual bulk of a potential building. Mr. Spillsbury expressed his belief that a six-story building was too large when located adjacent to a single-family neighborhood. He said he is opposed to growth and its potential impact on the environment.

**Ganesh Prakash, Shoreline**, said he lives next to Mr. Spillsbury. He said he was under the impression that the proposed amendments would only result in a senior housing project in his neighborhood, but it appears the language would allow commercial and industrial uses to occur in a building up to sixty feet high. He expressed his belief that a senior housing project would not be unreasonable, but a six-story building would be a safety hazard for the community. He suggested that if the property is developed as a senior housing building, the housing units should be constructed on the ground floor, where emergency access is more readily available. He questioned why commercial and industrial uses should be allowed next to single-family zones. He said he wants to continue to enjoy the peace and quiet of his property, and the trees, too. The proposed language would likely result in additional traffic that would impact his neighborhood.

At the request of Commissioner McClelland, Mr. Cohen clarified that the proposed amendments address the bulk issues associated with development in the RB, CB and I zones. However, it is important to keep in mind that commercial, residential and some industrial uses would all be allowed in these zones. Mr. Tovar explained that Mr. Prakash's remarks were related to a senior housing proposal that was originally submitted for the Overland Trailer Park property. However, it is important for the Commission to keep in mind that the proposed amendments would not govern the types of uses allowed in the RB, CB and I zones. Land use would be addressed later as part of the subarea planning process. Mr. Cohen said it is also important to remember that the amendments would be applied to RB, CB and I zones citywide.

**Joseph Irons, Shoreline**, pointed out that the staff report does not address traffic impacts associated with more intense development of the RB, CB and I zones. He said he is in favor of growth, as long as it is done right and reviewed comprehensively. This review must include a discussion about potential traffic impacts. He asked that the comments he made earlier about traffic impacts on Ashworth Avenue be included as part of the public record for this hearing. The City Council and City staff knows that Ashworth Avenue is a problematic street, and it is inappropriate to allow development to occur at a greater density. He suggested the proposed amendments require a traffic impact study to identify the potential impacts to residential streets.

Commissioner Wagner pointed out that a traffic analysis would be required as part of the development permit review. Mr. Cohen said that larger projects would require a traffic analysis, and perhaps a parking analysis. They would also require a SEPA review, which would allow the City to implement mitigating measures. He referred to the Echo Lake Project and noted that to alleviate the traffic impacts, turning movements from the property were limited. In addition, traffic calming and barriers would be added if necessary to protect the neighborhood to the east.

Vice Chair Kuboi asked staff to talk about how a traffic study for a given project would address the cumulative affect of all of the projects on the street. Mr. Cohen said a basic traffic analysis for most projects would study trips generated from the property, but it would also include a traffic capacity analysis for the street. Based on this information, staff could require modifications to a project to mitigate the impacts as part of the SEPA review. Vice Chair Kuboi summarized that the traffic analysis would take into account all the other activity on the street and how a new project would contribute. If the project pushes the street into an untenable traffic situation, the applicant would be required to

mitigate the situation. Mr. Tovar added that mitigation measures could include on or off-site improvements, but he cautioned against thinking that the SEPA analysis for a project would result in a reduction of the bulk of a proposed building.

Commissioner McClelland asked if a traffic analysis could conclude that a proposal would generate too much traffic for the street. Mr. Tovar explained that if mitigating measures (improvements) are identified, the City could impose these conditions on the approval. If it is not possible to mitigate the impacts below the threshold of a reasonable level, the consequence would not be denial of the project. Instead, an environmental impact statement would be required and a decision would then be made on the permit. He clarified that a SEPA document (checklist or an environmental impact statement) does not approve or deny a project; its purpose is to disclose impacts.

**Janet Kortlever, Shoreline**, pointed out that the maps provided by staff do not show that 152<sup>nd</sup> turns a corner into Ashworth Avenue. The proposed development at the Overland Trailer Park would tip the bulk of traffic over the limit of what the neighborhood could bear. She noted that all of the surrounding commercial buildings in the neighborhood are only one story. The proposed amendments would allow for an increased commercial use of the area. She said she was present to represent her neighbors, who have a huge interest in reducing traffic problems on Ashworth Avenue. They have worked with staff to reduce speeds and regain their quiet neighborhood. The traffic counts indicate there are between 1,200 and 1,500 cars per day going down Ashworth Avenue. The traffic calming measures have not worked to date, and this is due in large part to the light that was put in at 152<sup>nd</sup>. If widening the street is an option to accommodate the new development, the traffic numbers would increase further. Ashworth Avenue is already used as a cut through street.

Ms. Kortlever said it is mistake to think that neighbors are not concerned because they don't attend all of the meetings. She said she has left messages with each City Council Member about the neighbors concerns and their willingness to serve on a neighborhood traffic committee. She asked that the Commission preserve the single-family neighborhood and stop lowering the value of their homes by adding overwhelming new traffic. They were dismayed to learn of plans to widen their residential street to bring more and faster traffic through.

Commissioner McClelland asked if dead ending the street would resolve the problem. Ms. Kortlever said City staff has indicated this would not be an option because the street is used by emergency vehicles. The City did install a sign on Stone Avenue stating that the street was for local access only, but she has not received feedback from the City over whether this would be possible for Ashworth Avenue, as well.

**Les Nelson, Shoreline**, expressed concern that the proposed language would only address a transition for those single-family zoned properties that are adjacent to the CB, RB and I zones. However, it is important to keep in mind that a large development could also impact the residential properties that are further away. The map only identifies a portion of the properties that were covered by the moratorium. He suggested that the sketch-up model does not accurately depict what the building would look like in terms of scale. He said he is worried about further loss of trees on Aurora Avenue, and he pointed out

that it would take many years for the new ones to grow to an adequate height to replace those that exist now. He emphasized that a six-story building would not fit in with residential neighborhoods.

**Joe Kraus, Shoreline**, said that while the CB, RB and I zoned properties would limit development to a maximum of 65 feet in height, it is important to understand that an additional 15 feet in height would be allowed for rooftop equipment. This could result in a total building height of 80 feet. He questioned why the planners don't make this clear to the public. He said he lives on North 152<sup>nd</sup> Street and is concerned about the proposed development in that area on property that is landlocked on three sides. This site would not be able to accommodate the amount of traffic the proposed development would generate, including access buses, nurses, delivery trucks, maintenance trucks, taxis, mail vehicles, moving vehicles, social workers, and aid vehicles. No provisions were proposed for off-street or guest parking.

Mr. Kraus said he recently traveled north on Aurora Avenue at 5:30 p.m. Before he reached 145<sup>th</sup>, he was already stopped in traffic even though there were no accidents. At 143<sup>rd</sup> there was a huge crane two blocks off Aurora putting in a foundation for 500 more residential units. The Echo Lake Project would add an additional 500 units. He questioned how the City plans to address the traffic problems.

### **Final Questions by the Commission**

Commissioner Wagner noted that many of the sites where the proposed language would apply are extremely small and may not accommodate a total building height of 60 feet. Therefore, a 50-foot tree may be disproportionately more than what would typically be expected for a 20-foot tall building just because it happens to be zoned RB and located next to a single-family zone. Mr. Cohen said he would look at the number of properties that would be impacted by this requirement and determine whether it would make sense to include an alternative landscape provision for developments that are not greater than 35 feet in height. Commissioner Wagner noted that Type I Landscaping does not have a 50-foot minimum provision, and this was added at the request of the Commission. She said another option would be to apply the 50-foot provision to the larger sites only. Mr. Cohen said the current landscape requirement for CB, RB, and I zones adjacent to single-family zones is 20 feet of Type I Landscaping. The current language would enhance this provision further.

Commissioner Phisuthikul recalled that at the last meeting he expressed concern about how the proposed requirement for an inset area of 800 square feet would impact narrow and odd-shaped properties. He asked staff if they have explored options for making the size of the required inset more proportional to the dimension of the property. Mr. Cohen said the proposed requirement should hold regardless of the width of the property. The idea is to diminish the bulk of a building from a single-family property owner's point of view. He acknowledged that this may result in some awkward building designs in order to meet the transition requirements.

Commissioner McClelland said she would no longer be a member of the Commission on April 3<sup>rd</sup>, so she wanted to provide some editing comments. She agreed with staff that wherever rights-of-way are mentioned, it should say "street rights-of-way." In addition, single-family should be called "single-family zones." She expressed her belief that providing a six-foot fence and 50-foot trees would not



adequately screen a six-story building from an adjacent single-family zoned property. She agreed with Commissioner Phisuthikul that the inset requirement should be proportionate to the height of the proposed building. She questioned whether the insets would soften the impact as much as anticipated. She also noted the report should not say that each inset would potentially remove three, 800-square-foot apartments. This is an editorial statement that does not need to be part of the code language.

Commissioner McClelland referred to Item c on Page 21 and suggested they change the word “grow” to “grown.” Also, she suggested the last sentence be changed by replacing “can” with “may.” This would make it clear that no utility easement would be allowed to encroach into the landscaping requirements. In the last paragraph on Page 21, she pointed out that the word “holistically” was misspelled.

Commissioner McClelland said she spoke with Ms. Melville after the last meeting about her understanding that floors above grade could have balconies that look over into the neighbors’ backyards. Mr. Cohen said that balconies would be allowed, but they would have to be located within the allowed building envelope, which takes into account the setback and stepback requirements. Commissioner McClelland said Ms. Melville was concerned that even with all of the proposed provisions that were intended to create some privacy for single-family properties, allowing balconies would defeat the purpose.

Commissioner McClelland said this is a situation where staff has done everything they can to make the transition better for most of the properties on the map, but it is still going to be a terrible situation for single-family residents living near the 152<sup>nd</sup> Street project. She agreed that Ashworth Avenue is not appropriate for semi-trucks to access. If the light at 152<sup>nd</sup> has caused people to bypass and get to Meridian via Ashworth Avenue, the City must take action to stop it. She urged the neighbors to go before the City Council and request they take action to resolve the problem.

Vice Chair Kuboi pointed out that Commissioners Harris and McClelland would no longer be serving on the Commission at the time of the April 3<sup>rd</sup> continued hearing. However, he suggested the Commission avoid offering opinions and subjective comments until they have completed the public hearing on April 3<sup>rd</sup> and begin their deliberations.

Commissioner Harris referred to Commissioner Phisuthikul’s comment about how the setback or inset concept would be applied to narrow lots. He noted that the requirement would only be implemented if a building has more than 50 feet of continual length. A narrow lot could be developed into a series of smaller structures the full width without the insets, and this would meet the articulation requirement and break up the mass. Mr. Cohen said he would consider this issue and provide a clear answer at the next meeting. He expressed his belief that whether there is one or more buildings, all the buildings should be required to collectively create the setbacks. A 20-foot gap between the buildings would meet the requirement.

### **Continuation of the Public Hearing**

**COMMISSIONER WAGNER MOVED TO CONTINUE THE PUBLIC HEARING ON CODE AMENDMENTS TO REPLACE THE MORATORIUM (INTERIM REGULATIONS) IN CB,**

**RB, AND I ZONES TO THURSDAY, APRIL 3, 2008. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED 4-0-1, WITH COMMISSIONER HARRIS ABSTAINING.**

The Commission recessed at 9:02 p.m. The meeting reconvened at 9:07 p.m.

**DIRECTOR'S REPORT**

Mr. Tovar reminded the Commission of their joint meeting with the Park Board on March 27<sup>th</sup>. The topic of discussion would be the draft Shoreline Sustainability Strategy document, which was provided to each of the Commissioners. He particularly noted that Chapter 4 focuses on implementation.

Mr. Tovar recalled that, at the request of the City Council, staff hired a consultant to conduct a study on the financial feasibility of four, five and six-story buildings on the property currently being proposed for Planned Area II in the Ridgcrest Commercial Neighborhood. The study would be posted on the City's website on March 21<sup>st</sup> and presented to the City Council on March 24<sup>th</sup>. The City Council would discuss the issue again on March 31<sup>st</sup>, and staff anticipates they would reach a conclusion on what the zoning of the property should be at that time.

Mr. Tovar announced that a kick-off meeting for the Southeast Shoreline Neighborhoods Subarea Plan was held on March 19<sup>th</sup>. There were about 50 people in attendance. At some point a citizen advisory committee would be appointed to guide the process.

Mr. Tovar advised that at the March 17<sup>th</sup> City Council Meeting a contingent of neighbors expressed concern about a proposed "air condo" development in the Greenwood area near 155<sup>th</sup>. He explained that the term "air condo" is used in Snohomish County to apply to certain common wall and stacked dwelling units in single-family zones. Although a complete application has not been filed, the applicant is proposing to create a seven-home, single-family detached project using the condominium act provisions rather than the subdivision statute and ordinance. This means that rather than independent lots, with a public right-of-way serving the lots, there would be seven single-family homes on a common, shared piece of ground. Ownership would be segregated using condominium act provisions. The project would still be subject to provisions for storm drainage, tree retention, and setbacks. He noted that a similar project was constructed on the north side of 175<sup>th</sup> east of Linden Avenue. The neighborhood group asked the City Council to adopt a moratorium on this form of ownership, and the City Attorney has concluded that the City Council does not have the legal authority to prohibit someone from using the condominium act as an alternative to the subdivision statute. However, they can require them to meet all the development regulations.

Commissioner McClelland asked Mr. Tovar to share more information about the neighbors' objections. Mr. Tovar explained that the neighbors pointed out that if the same property had been subdivided into individual lots served by a public right-of-way, the developer would only be able to construct six homes. By going through the condominium process, the applicant could construct seven homes because he wouldn't have to deduct for right-of-way. Instead, they would provide a shared access road that is in common ownership. The neighbors were also concerned that more trees would have to be removed to

construct seven homes instead of six. They expressed concern that the developer was using the condominium act as a loophole to get around the City's provisions. He emphasized that, legally, a developer could use either statute.

Commissioner McClelland asked if using the condominium provisions would result in a reduction in the price of each unit. If land is more valuable than the structure, perhaps this is a way to keep down the prices of housing. Mr. Tovar agreed that is one argument, but others would argue that it would simply result in more profit for the developer.

Vice Chair Kuboi pointed out that the concept of "air condos" has been discussed on numerous occasions by Snohomish County. He expressed concern that the issues facing Snohomish County might get co-mingled with issues in Shoreline. This could result in a great amount of misinformation about what the relevant issues for Shoreline are. Issues raised in South Snohomish County are associated with public safety and infrastructure burdens that could impact cities if they were annexed in the future. He suggested it would be beneficial for the Planning and Development Services to be proactive in disseminating accurate information to the neighborhood associations via the Council of Neighborhoods. Mr. Tovar agreed.

Mr. Tovar reminded the Commission that they would meet jointly with the City Council in April to discuss their future work program. He suggested that tree retention is an on-going issue associated with many short plat project proposals. Staff recommends the City Council place the City's current tree retention provisions on the work program for review later this year.

Mr. Tovar suggested the Commission's future work program also include a discussion on how to implement the statements in the Comprehensive Housing Strategy document. As part of this review, they could consider the kinds of housing stock that currently exists and what the future market demands would be. They must also be mindful of the strong concerns about cottage housing, air condos, accessory dwelling units, etc.

Commissioner McClelland said she was disappointed that the small houses on Linden Avenue would be removed and replaced as a result of a recent rezone proposal. She suggested the City create an inventory of where these small houses could be moved. Commissioner Harris pointed out that the cost of moving these small, older homes would likely be more than their value. Commissioner Phisuthikul added that there are also physical limitations on moving structures through existing roadways. Commissioner Harris noted that the wiring is old and there is typically no insulation in the older homes. He concluded that their economic value would not be enough to warrant the cost of moving them.

## **REPORTS OF COMMITTEES AND COMMISSIONERS**

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

## **UNFINISHED BUSINESS**

There was no unfinished business scheduled on the agenda.

## NEW BUSINESS

### Prepare for April 7<sup>th</sup> Joint Meeting with the City Council

The staff and Commission discussed possible discussion topics for the joint City Council/Planning Commission Meeting that is scheduled for April 7, 2008. They particularly identified the following discussion items:

- **Commission's 2008 Work Program and Reassigning Most Quasi-Judicial Matters:** This could include a discussion about the Commission recent recommendation that most quasi-judicial items that typically come before them be reassigned to the Hearing Examiner for the next 12 months. While the actual work program would probably not be controversial, the Commission should point out their time constraints. They could ask the City Council to identify what items could be deleted from the work program if they decide not to offer them relief from quasi-judicial matters. It is important for the City Council to understand the tradeoffs.
- **Design Review and Design Guidelines:** The Commission recalled that when they considered the Ridgcrest Commercial Neighborhood Zoning Proposal, there was interest in creating a stronger design component for the Development Code that could perhaps implement a design review board. It was noted at a previous meeting that the current code says that if the Director thinks something should go through design review, he can forward it to the Planning Commission. However, there is not a lot of detail about how this review would be done and what criteria the Planning Commission would use to evaluate a proposal. It would be appropriate to seek guidance from the City Council about whether or not it is time to go through the legislative process of hammering out the details for a design review process.
- **Public Hearing Process:** Citizens should not be encouraged to withhold their comments from the Planning Commission in order to go straight to the City Council. Whatever they have to say to the City Council should also be presented to the Planning Commission. They could recommend that during public hearings, the City Council attempt to ascertain if a person raised their issues before the Planning Commission, as well. They could also invite staff to share the Planning Commission's response to the expressed concern.
- **Open Ended Discussion:** After the work program issues have been resolved, the Commission and Council could have an open ended conversation about how the two groups could help and support each other.
- **How to Work Together More Effectively:** It was discussed that perhaps some of the City Council's apprehension about the Ridgcrest Commercial Neighborhood proposal was a result of their misunderstanding the Commission's role and what went into their recommendation. There was a time when a unanimous recommendation from the Planning Commission was trusted and went forward, and there was more agreement between the Council and the Commission. If the two groups are at odds over the direction, perhaps this should be a topic of conversation.

- **Short Course in Public Planning:** Some of the procedural issues could be addressed by asking CTED to conduct a short course in public planning to educate the new Commissioners and City Council Members regarding the rules and procedures for public hearings. Members of the public could also be invited to participate.

Mr. Tovar advised that the Mayor and Deputy Mayor have expressed they would like to have a meeting with the Planning Commission's Chair and Vice Chair in advance of the joint meeting to finalize the agenda. Vice Chair Kuboi said that, typically, the joint meeting agenda includes so many items that they are unable to discuss any one topic enough to come to a resolution. The Commission agreed it would be appropriate for the Chair and Vice Chair to work with the Mayor and Deputy Mayor to finalize a workable agenda.

### **ANNOUNCEMENTS**

There were no announcements during this portion of the meeting.

### **AGENDA FOR NEXT MEETING**

Vice Chair Kuboi announced that the Commission's next meeting would be a joint meeting with the Park Board on March 27<sup>th</sup> at 7:00 p.m. at the Cascade Room of the Spartan Recreation Center.

Commissioner Harris asked if the Planning Commissioners have received copies of the Comprehensive Housing Strategies Report. Ms. Simulcik Smith answered that copies were not mailed to the individual Planning Commissioners, but the document is posted on the City's website. Commissioner Harris asked staff to forward him a hard copy of the document.

### **ADJOURNMENT**

**COMMISSIONER WAGNER MOVED THE COMMISSION ADJOURN THE MEETING AT 9:45 P.M. VICE CHAIR KUBOI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

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Rocky Piro  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission