

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

December 6, 2007  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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### **COMMISSIONERS PRESENT**

Chair Piro  
Vice Chair Kuboi  
Commissioner Broili  
Commissioner Hall  
Commissioner Harris  
Commissioner McClelland  
Commissioner Phisuthikul  
Commissioner Pyle  
Commissioner Wagner

### **STAFF PRESENT**

Paul Cohen, Senior Planner, Planning & Development Services  
Jill Mosqueda, Development Review Engineer  
Flannary Collins, Assistant City Attorney  
Jessica Simulcik Smith, Planning Commission Clerk

### **CALL TO ORDER**

Chair Piro called the regular meeting of the Shoreline Planning Commission to order at 7:04 p.m.

### **ROLL CALL**

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

### **APPROVAL OF AGENDA**

The Commission accepted the agenda as proposed.

### **DIRECTOR'S REPORT**

Mr. Cohen advised that Mr. Tovar may arrive later in the meeting and would like to provide a Director's Report if the Commission meeting is still in session.

## **APPROVAL OF MINUTES**

The minutes of November 1, 2007 were approved as submitted. The minutes of November 15, 2007 were approved as corrected.

## **GENERAL PUBLIC COMMENT**

There was no one in the audience who expressed a desire to address the Commission during this part of the meeting.

## **CONTINUED PUBLIC HEARING ON PLATEAU AT JACKSON PRELIMINARY FORMAL SUBDIVISION**

Chair Piro reviewed that the public hearing on the Plateau at Jackson Preliminary Formal Subdivision Application was initially opened on September 20, 2007 and continued to November 15, where the Commission accepted testimony from the applicant, the public and City staff. The hearing was further continued to December 6, 2007. He reviewed the rules and procedures for continuing the hearing. He specifically reminded the Commissioners of the Appearance of Fairness Rules and invited Commissioners to identify any *ex parte* communications they may have participated in. Commissioner McClelland reported that while she attempted to listen to the tape from the last meeting, she was unable to do so. However, she has read the minutes from the September 20<sup>th</sup> and November 1<sup>st</sup> meetings and would like to participate in the discussion. No one on the Commission or in the audience indicated a concern. None of the Commissioners and no one in the audience indicated an appearance of fairness concern.

Chair Piro said the City Attorney reminded him that the public hearing was left open for written testimony until 5:00 p.m. on December 5<sup>th</sup>. All materials received were distributed to the Commissioners. Ms. Collins pointed out that the Commission did not officially close the public portion of the hearing on November 15. Therefore, it is within the Commission's discretion to allow additional public comment from members of the audience before they begin their deliberations. The Commission agreed not to allow additional comments from members of the audience who already had an opportunity to participate in the hearing.

## **Presentation of Final Staff Recommendation**

Mr. Cohen indicated that he did not have further information to provide beyond what was previously presented by staff.

## **Final Questions by the Commission and Commission Deliberation**

Commissioner Phisuthikul referred to Item 6.5 on Page 41 of the Staff Report, which indicates that fire protection sprinklers would be required if the grade is greater than 15%. However, he was unclear as to which grade this refers to. Mr. Cohen suggested, and the Commission concurred, that additional

language should be added to clarify that this refers to the fire vehicle access road. Commissioners Broili and McClelland pointed out that earlier sentences in the section make it clear the language refers to fire vehicle access.

Chair Piro asked Mr. Cohen to highlight the key changes that were made since the proposal was reviewed by the Commission on November 15<sup>th</sup>. Mr. Cohen answered that no changes were made.

Commissioner Wagner asked staff to identify the theoretical maximum number of units that would be allowed on the subject property if the subdivision were approved. Mr. Cohen answered that the site would be limited to six dwelling units. Commissioner Wagner summarized that, under the current zoning, a developer could possibly construct 10 detached, single-family style homes that are under the land ownership of a condominium type association. Mr. Cohen answered affirmatively and explained that it is typically possible to get more density if a property is not subdivided.

Commissioner Pyle concluded that if the proposal is denied, the property owner could submit an application to construct 10 units on the site, and the only recourse the community would have would be to appeal the SEPA threshold determination. Mr. Cohen clarified that the critical areas tract, which occupies about 1/3 of the site, would still be a requirement. In theory, the current zoning would allow up to 10 units, but this might not be practical based on the City's dimensional and critical areas requirements. Commissioner Wagner added that the critical area would still count for a large portion of the lot coverage so a developer would likely be able to have more coverage of non permeable surfaces under the current zoning, with no change. Mr. Cohen agreed. He summarized that if the property were not subdivided into lots, the developer would be able to fit more units on the site, but it is difficult to know exactly how many more would be allowed.

Commissioner Wagner referenced Item 9.1 on Page 45 of the Staff Report and clarified that any development on the property would be required to meet the minimum density requirement of 4 units per acre. Although the property is currently vacant, it is important to note that if the property is redeveloped, a builder would be required to construct at least five units on the site. Mr. Cohen agreed that any future development would be required to meet the minimum density standard. Commissioner Wagner summarized it is likely the property would be developed at the same impact or more, regardless of whether the site is subdivided or not.

Commissioner McClelland pointed out that having six houses on six lots would mean six owners who have to take responsibility for the drainage issues that are of such concern to the community. Six townhouses on one lot would mean one property owner is responsible for drainage issues. Theoretically, this could make a big difference to the neighborhood because only one person would be held responsible for stormwater runoff from the site. Mr. Cohen explained that the proposed stormwater system would be in a separate tract, and the City would maintain it for two years to make sure it functions properly. Commissioner McClelland said her concern is how much impervious surface would be created by each individual property owner. Theoretically, there would be a difference between six single-family properties and a single, townhouse development.

Commissioner Pyle reminded the Commission and public that this is not a hearing on the current City codes and standards that have already been established. Nor is it a hearing to discuss whether or not the property is developable since this has also been established. He referred to Section 20.30.410 of the Development Code, which outlines the process for reviewing preliminary subdivision applications and the criteria that must be considered. He pointed out that there is no criterion requiring the proposal to be consistent with the Comprehensive Plan. Commissioner Hall explained that, in theory, the City's Development Code is supposed to embody the policies found in the Comprehensive Plan. Commissioner Pyle summarized that for purposes of reviewing this application, the Commission need not delve into the Comprehensive Plan because it's assumed that the criteria are sufficient enough to address the Comprehensive Plan goals and policies. Ms. Collins encouraged the Commission to follow the criteria found in Section 20.30.410 of the Development Code when determining whether or not the application is consistent.

Commissioner Pyle noted the public expressed concern about the subject property's close proximity to public park lands and the connection that exists between the parks, the greenbelt, etc. He asked the applicant, Mr. Little, to share whether or not he would consider deeding Tract B, which is the critical area, over to the City to become part of a greenbelt system. This would make it possible for the proposal to meet the community's stated objective of maintaining connectivity for wildlife habitat. It would also allow the developer to pursue the six-lot subdivision, and the six homeowners would not be burdened with the maintenance and responsibility of the tract.

**John Little, Applicant,** said it is his understanding that the critical area tract would remain the same either way. Commissioner Pyle agreed and explained that the issue is more related to ownership and preservation and the City's ability to utilize the tract in meeting the stated Comprehensive Plan park objectives by providing more green space and open space in the City. Mr. Little indicated he would not be opposed to deeding the tract to the City as long as it would not interfere with the subdivision, itself. Mr. Cohen pointed out that if the critical area tract were deeded to the City, it would no longer be included as a part of the subject property, and this could have a significant impact on the applicant's ability to meet the City's impervious surface requirements.

Commissioner Wagner suggested that the critical areas tract on the subject property could become a nice swap for the permanent public easement on the other side of the site. However, this would require additional work for the City to evaluate the costs and implications of assuming the added responsibility and burden. Mr. Little said he does not believe it has ever actually been identified as a public easement. His understanding is that it was an easement on the property from one lot to the other. He questioned the Commission's ability to require the applicant to deed the critical areas tract to the City in exchange for the easement. Mr. Little said the easement was made in 1946. Ms. Collins agreed that the easement is old, and the only reason the City may have required it by default is because they became the owner of the property (Paramount Park Open Space) it was granted to. She noted that the easement stops at Lot 14, and it doesn't extend to 145<sup>th</sup> Street. Therefore, it doesn't really serve any public purpose, if it indeed is the City's, which they argue it is.

Commissioner McClelland suggested that if the Commission's objective is to have the critical areas tract become a corridor and continuation of the park, it could become a preserve or reserve that is privately

owned, but with some type of public access. She expressed her belief that the critical areas tract and the easement property are not equal in any respect, so she questioned how a possible exchange would work. Commissioner Harris pointed out that, as designed, Tract B would become a critical area and signed as off limits to trespassing, etc. This would be true regardless of whether the tract is privately or publicly owned. Therefore, he does not see any gain for the City to own it.

Commissioner Pyle expressed concern that owners of proposed Lots 3, 4 and 5 may feel some sense of ownership of the tract if it remains under common ownership of the property owners. They may feel the inherent right to use the property. In his experience, property owners who live adjacent to protected critical areas that belong to them, slowly whittle away the critical area and use it as their yard. On the other hand, if there were a definitive property boundary, the City would have more teeth to enforce the preservation of the area.

Commissioner Harris pointed out that the current code gives the City the ability to require future property owners to maintain the tract, and he likes to have faith that the public will do the right thing. Commissioner McClelland pointed out that the critical areas tract on the subject property is steep in nature, making it less likely that adjacent property owners would be able to encroach into the protected area.

**COMMISSIONER HALL MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE SUBDIVISION PER STAFF'S RECOMMENDATION. COMMISSIONER WAGNER SECONDED THE MOTION.**

Commissioner Hall reminded the Commission that their role is to advise the City Council as to whether or not the subject property could be subdivided for residential development without significantly impacting the surrounding property owners. Public safety issues would be addressed by staff when implementing the site design, access and visibility requirements already in the Development Code. He said he does not believe the proposed subdivision would create a safety problem.

Commissioner Hall said he is also very concerned about the drainage problems that exist in the vicinity. However, it is important to remember that the property is zoned for single-family development. He said he likes to think they can accommodate population growth and housing needs without dealing with challenging sites, but there are few places in the City where single-family residential development could occur without tackling some of these hard issues. The City must make a choice to either find ways to allow single-family residential development on marginal sites by protecting the steep slopes and critical areas as best they can, or they must determine these challenging sites are not suitable for development at all. That would require them to shift additional density elsewhere, which would be difficult to do without a lot of public outcry. Again, he noted the proposed subdivision is consistent with the current zoning. Commissioner Hall summarized that he would support the proposed subdivision and put his faith in staff and the permit process to fully implement the City's codes and safeguard the welfare of the public.

Commissioner Wagner agreed with Commissioner Hall's comments. She said she does not believe the site would remain undeveloped, given the current housing market in Shoreline and current demand for

developable land. Therefore, there would be an impact to surrounding properties regardless. When considering the differences between what could happen based on the current status versus a subdivision, she said she believes the impact would not be any worse. Her main concern is related to drainage, but she believes the proposed detention system would improve the site's ability to retain more water on site and the downstream property owners would actually be better off. She said Mr. Cohen also addressed the concern about the removal of significant trees by stating that, as per code, additional trees would have to be planted to replace those that are removed. She summarized that most of her concerns have been adequately addressed and she would support the proposal to subdivide the site.

Commissioner Harris said that as he analyzed the proposal, he attempted to compare it with other sites the Commission has reviewed and approved in the past. He was particularly concerned about the stormwater issue, but he concluded that if this same site were located anywhere else in the drainage basin, the same stormwater would end up in Little's Creek, just further upstream. For good or bad, the City manages their stormwater by retaining, cleansing and then directing it into streams. He agreed that there are sight distance problems that must be resolved, but it is important to note that the site is not buried inside a neighborhood. It's on the outskirts and has access from a major arterial, so the traffic leaving the site would not impact pedestrians on residential streets. He also pointed out that, if subdivided, the site would be developed with less density than is typical for the zone. In addition, the proposal would designate a critical area tract to address the needs of habitat adjacent to the park. He summarized that while the property has challenges, it is not that much different than many other undeveloped sites within the City.

Commissioner Pyle emphasized that the City has a drainage problem that stems from the conveyance and movement of stormwater across a landscape and depositing it into the stream systems. However, this is a citywide problem that should not be pinned on this site. This one development is not going to cause the flooding problems the City is already experiencing. Also, he suggested the Planning Commission is not the appropriate venue to address the City's drainage problems. Instead, the problems should be addressed through code changes, as well as the Comprehensive Plan and Capital Improvement Plan processes. He suggested that residents could petition the City Council to invest more money into the system to better reduce problems. He emphasized that drainage from the subject property would not directly affect Shoreline residents, and no comment was received from Seattle Public Utilities and they are the direct recipients of the stormwater. He said he believes the proposed, small-scale project would be consistent with the development patterns that already exist and would not cause a negative impact that could not be mitigated through application of the City's codes and standards. He said he would support approval of the proposal as recommended by staff.

Commissioner Broili said he doesn't want to prevent development, and if there were any indication that this development would take any sort of adequate measures to mitigate the runoff, he might be inclined to support it. However, he hasn't seen that yet. He said it doesn't matter whether the stormwater runs into Shoreline or Seattle; it is all part of the same watershed and streams rarely flood in healthy, intact watersheds and environments. They flood because of development patterns. He recognized the City doesn't have adequate codes in place to address drainage, and he suggested they should move forward quickly to mitigate this problem. He said he could not support approval of the proposal.

Commissioner Phisuthikul expressed his belief that the slope on the south side of the subject property should be considered a steep slope regardless of whether it was created by man or nature. He referenced Item 8.1 on Page 43 of the Staff Report and noted that the second criteria requires that the proposal be designed to minimize grading by using shared driveways and by relating street, house site and lot placement to the existing topography. To meet this criterion, he suggested the driveway approach and access to the property should come from the existing 11<sup>th</sup> Avenue Northeast. He also recommended three other changes to the Staff Recommended Conditions of Approval, namely Conditions 3, 10 and 13.

### **Closure of the Public Hearing**

The public hearing was closed.

### **Vote by Commission to Recommend Approval or Denial or Modification**

**COMMISSIONER PHISUTHIKUL MOVED TO AMEND THE MAIN MOTION BY CHANGING CONDITION 3 TO READ: “PRIOR TO ISSUANCE OF A SITE DEVELOPMENT PERMIT, A GEOTECHNICAL REPORT SHALL BE SUBMITTED THAT ADDRESSES ISSUES RELATED TO THE INSTALLATION OF SANITARY SEWER AND STORM DRAINAGE PIPELINES, AND GRADING AND SITE DEVELOPMENT EROSION CONTROL IN TRACT B. THE REPORT SHALL. . .” COMMISSIONER PYLE SECONDED THE MOTION.**

Commissioner Pyle agreed with Commissioner Phisuthikul that due to the sensitivity of the site, additional monitoring requirements imposed on the development of the site at a future date would help go the extra distance in insuring that erosion problems are kept in check. A monitoring plan for the duration of the construction and following construction, associated with the steep slopes, is a good thing.

Commissioner Harris said that while he would support the proposed change, the existing language already addresses grading and site development erosion control as one of the issues related to the installation of sanitary sewer and storm drainage pipelines in Tract B.

**THE MOTION TO AMEND THE MAIN MOTION WAS APPROVED 7-0-2, WITH COMMISSIONERS BROILI AND MCCLELLAND ABSTAINING.**

**COMMISSIONER PHISUTHIKUL MOVED THAT THE MAIN MOTION BE AMENDED BY CHANGING CONDITION 10 TO READ: “PURSUANT TO SMC 20.30.430, THE DEVELOPER SHALL HAVE A SITE DEVELOPMENT PERMIT REVIEWED AND APPROVED BY THE CITY OF SHORELINE. THE PERMIT APPLICATION SHALL INCLUDE PLANS FOR TREE RETENTION AND REPLACEMENT, GRADING AND STEEP SLOPE ANALYSIS (FOR PRE-SITE, POST-SITE AND HOME-SITE DEVELOPMENT), AND ALL ON-SITE ENGINEERING INCLUDING STORMWATER CONVEYANCE AND DETENTION, UTILITY INSTALLATION, AND PRIVATE STREET CONSTRUCTION. THE**

**COMPLETION OF THIS WORK SHALL BE SECURED BY A PLAT PERFORMANCE FINANCIAL GUARANTEE IN THE AMOUNT OF 125% OF THE ESTIMATED COST TO COMPLETE THE WORK PLUS A 15% MOBILIZATION COST. THE APPROVED PLANS ASSOCIATED WITH THE SITE DEVELOPMENT PERMIT SHALL BE SUBSTANTIALLY IN CONFORMANCE WITH THE APPROVED PRELIMINARY CIVIL CONSTRUCTION PLANS.” COMMISSIONER HARRIS SECOND THE MOTION.**

Commissioner Harris pointed out that all of the items in this condition are those issues that would be addressed as part of the permitting process. The proposed change would merely spell out the requirements more.

**THE MOTION TO AMEND THE MAIN MOTION WAS APPROVED 7-0-2, WITH COMMISSIONERS BROILI AND MCCLELLAND ABSTAINING.**

Commissioner Phisuthikul referenced Condition 13 and suggested it would be appropriate to also require approval from the Fire Department, since a sprinkler system may be required as a result of the steep emergency access road. Commissioner Harris pointed out that Fire Department approval would have to be granted before the final plat could be approved. In addition, building permits for the construction of each home would require approval from the Fire Department. Chair Piro also noted that Item 9.3 on Page 46 of the Staff Report would also require the Fire Department to review and approve the plans for site access and fire hydrant proximity to the site. The Commission agreed that no changes should be made to Condition 13.

Commissioner Wagner suggested the Commission and staff spend some time to clarify whether or not the required detention and remediation would improve the drainage conditions on the site. Commissioner Broili pointed out that based on his general knowledge of the way hydrology works with the landscape, there is currently little or no runoff coming from the site that goes into Little Creek. What little that does leave the site goes through infiltration through the groundwater flow and takes weeks to months to get there. The applicant is proposing a slow release detention system, which means the water would go into Little Creek much sooner than it would through a natural system. There are low-impact development methods that would mimic the natural hydrology very closely, and if this site were being developed with those parameters, he would support the proposal. Based on his observation, he concluded that whatever is developed on the site would put more water into Little Creek that wouldn't normally go there through a natural system.

Ms. Mosqueda explained that engineered systems are not the same as natural systems. She noted that nothing would change in the northwest 1/3 of the lot, so all the surface drainage would continue to go down the hill to 10<sup>th</sup> Avenue Northeast and then into Little Creek. She said she spent two hours visiting the site earlier in the week and observed that the surface water on the south side of the site comes down the face, hits 145<sup>th</sup> Street, goes down to 10<sup>th</sup> Avenue Northeast and then runs into Little Creek. Surface water from the northeast corner and easterly side of the site flows down towards the house and what used to be 11<sup>th</sup> Avenue Northeast and perches there. The applicant modeled the site as forested, which is more conservative than required by the City. They used a Level 2 detention which is stricter than what would be required by the 1998 King County Surface Water Manual. She explained that the only

way the applicant could possibly do natural infiltration would be to scrape the site or fill it with different soils, which is not something the City can require. She summarized that the site does not meet the current code at this time, but the applicant's proposal would.

Commissioner Pyle asked if the soils on the site perk. Ms. Mosqueda answered no and added that the existing soils are glacial till, which is like concrete. The water ends up sitting on the surface.

Commissioner Broili said he doesn't disagree there is presently stormwater runoff coming from the site because it's not a fully forested site. The cut bank on 145<sup>th</sup> Street is compacted, which is not a natural occurrence. If it were, there would be no runoff. When he speaks of restoring the hydrology on any given building site, he is talking about far more than just soil restoration. There is a whole plethora of tools at hand that can achieve a more natural approach.

Ms. Mosqueda agreed with Commissioner Broili that there are numerous tools available to address stormwater runoff. However, the issue before the Commission is whether or not it is appropriate to subdivide the site. The applicant is proposing to do detention, which is allowed by the existing code and a standard practice in the industry. She said she can't think of a way to squeeze a developer into doing something that the current code does not require. Commissioner Broili agreed that staff must work with the existing code, but the Planning Commission, City Council and Planning Department must move forward quickly to make sure other, more natural approaches are integrated into the City's code requirements. His job is to vote for what he thinks is in the best interest of the City at large, and he doesn't think the current proposal would meet that goal.

Commissioner Hall referred to the geotechnical report provided by the applicant. While he agreed with Commissioner Broili that there are better ways to address drainage issues, the geotechnical engineer and City Engineer have both indicated their support for the proposed plan. He said he plans to support the proposal because it meets the City's current code requirements.

Commissioner McClelland recalled that the public testimony at the last portion of the hearing caused her to become very compassionate about wildlife systems, drainage systems, water systems, etc. and she wished they could do the most creative thing possible to satisfy all interests somehow. She appreciates staff's comment about the code requirements, but she wants developers in the City to offer to go further than what the code requires to do the right thing. The current code is not good enough, and the staff must encourage developers to do better.

Commissioner McClelland pointed out that the first line of the last bulleted item of Condition 24 should be changed by deleting the word "not." Staff agreed to make the change.

Commissioner Harris agreed that, idealistically, many of the concerns raised by the Commission could be addressed through zoning. Probably the best use of the site would be R-12 zoning, with a very compact 3-story structure in the corner, with some parking next to it along the hill. This would allow nearly all of the trees to remain on the site. The parking garages could tuck up into the bank and hardly be seen, yet have good access to 145<sup>th</sup> Street. The footprint of impervious surface would be much smaller. However, the Commission doesn't have this option. It's easy to throw stones at the code, but

maybe they need to be more creative with zoning in the future by implementing the form-based zoning concept on particular sites.

Chair Piro agreed with Commissioner Hall that the subject property is very challenging and unusual, and many valid concerns and comments were raised by members of the audience and the Commissioners. He said he was disappointed that the proposal was not updated to resolve some of the key concerns such as the open space corridor, continuity, access, drainage, etc. He recognized the quality work that was done in assessing the proposal, and he believes a subdivision of some type would be appropriate for the site. However, he is concerned that the proposal does not represent the best treatment possible.

Commissioner Wagner requested clarification from Ms. Mosqueda about her previous comment that the Level 2 Flow Control proposed by the applicant is actually more than the current code requires. Ms. Mosqueda clarified that while some sites might qualify for Level 1 under the 1998 King County Surface Water Manual, Shoreline has been requiring Level 2 Flow Control on all sites for some time. She emphasized that the detention vault has not been approved by the Engineering Department. It is just a way to show that something can be done to address drainage on the site.

Commissioner Hall thanked staff and the proponent for bringing forward Condition 9 that would put a pedestrian facility along the access tract, which is something that was not included in the initial proposal. He said he would love it if the private sector or the government could figure out a way for neighboring land owners to resolve issues related to shared driveways. The ideal solution for the subject property would be not only moving access to the far eastern part of the site, but actually having a single access point into the development. Utilizing the shared access and driveway concept results in greater land efficiency, greater public safety, fewer access points, fewer curb cuts, etc. Chair Piro agreed that the City missed an opportunity to establish shared access with the neighboring property owner.

Commissioner Hall said that when reviewing photographs and the public testimony, it became apparent to him that there is quite a bit of activity going on in the regulatory critical area from existing home owners that is probably not consistent with the City's current Critical Areas Ordinance. He suggested the Commission consider addressing this code enforcement issue as part of a workshop discussion.

Commissioner Hall pointed out that the current proposal calls for the City to release a road easement, which is different from vacating a road. There could have been some public benefit by connecting public pedestrian access from 145<sup>th</sup> Street to Paramount Park, and the proposed development would eliminate this opportunity without providing any benefit or tradeoff for the community.

**THE AMENDED MAIN MOTION TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE SUBDIVISION PER STAFF'S RECOMMENDATION WITH THE TWO PLANNING COMMISSION AMENDMENTS WAS APPROVED 6-1-2, WITH COMMISSIONER BROILI VOTING IN OPPOSITION, AND COMMISSIONER MCCLELLAND AND CHAIR PIRO ABSTAINING.**

Commissioner Hall suggested that as the Commission plans their future work program, they ought to address the code issues that are inadequate to deal with proposals of this type. The remainder of the Commission concurred.

The Commission discussed the format that was used for the Staff Report, which was different than what is typically provided for Commission consideration. The format represented what would be transmitted to the City Council. Commissioner Piro expressed concern that it was presumptuous on the part of staff to disseminate a report that indicates the Commission unanimously recommends approval. If this format is used again in the future, it should be clear that the Commission has not made a decision.

## **REPORTS OF COMMITTEES AND COMMISSIONERS**

Vice Chair Kuboi announced that the Comprehensive Housing Strategy Group would meet again on January 2, 2008. They are working with the final version of the draft report that would be forwarded to the City Council on a date yet to be determined. They are nearing the end of their work.

Commissioner McClelland reported that the Aurora Project received a Determination of Non Significance on all the reports that were completed. The documents have all been posted on the City's website.

Commissioner McClelland reported on her attendance at the leadership training session that was sponsored by the Council of Neighborhoods. She said she is scheduled to attend their January meeting as a representative of the Commission. They appreciated her attendance, and the meeting was very informative.

Chair Piro referred to a letter from the City Manager's Office reflecting some issues and concerns the City would communicate during a public comment hearing Community Transit is having on its bus rapid transit proposal for the Highway 99 alignment.

## **UNFINISHED BUSINESS**

### **South Echo Lake Open Space**

Chair Piro reported that the December 3<sup>rd</sup> City Council Meeting, at which he was supposed to address the Council on behalf of the Commission regarding the Echo Lake issue, was cancelled due to the storm. He summarized the input he received from the Commission to date. Those who responded indicated it would be ideal for the open space to be in public ownership at some point in time, but there was concern about setting a precedent for future applications. He expressed his concern that while there were conditions placed on the property, it appears the developer is trying to off load one of the conditions at a significant cost to the City. It would be better in the long run, in terms of maintenance and possible utilization, if the open space were publicly owned.

**COMMISSIONER HALL MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE CITY COUNCIL THAT THE AREA AROUND THE SOUTHERN MARGIN OF**

**ECHO LAKE WOULD BE IDEAL TO BE IN PUBLIC OWNERSHIP IN THE FUTURE AND THAT THE RESTORATION OF THE REZONE CONDITIONS ASKED FOR MUST BE FULFILLED BY THE DEVELOPER PRIOR TO THE PUBLIC TAKING OWNERSHIP. IF THE CITY WANTS TO TAKE POSSESSION OF THE PARK PRIOR TO THE CONDITIONS BEING SATISFIED, THE DEVELOPER SHOULD PAY THE CITY A FEE THAT IS ADEQUATE TO SUFFICIENTLY MEET THE COST OF RESTORATION. ALSO THE ADMINISTRATION OF SHORELINE'S DEVELOPMENT CODE AND PERMIT PROCESS DEPEND ON PREDICTABILITY AND ENFORCEMENT OF PERMIT CONDITIONS. THE PUBLIC'S EXPECTATION (ESTABLISHED THROUGH THE PUBLIC PROCESS FOR SOUTH ECHO LAKE) WAS THAT THE PERMIT APPLICANT WOULD MEET CERTAIN CONDITIONS, AND THEY SHOULD BE ENFORCED PRIOR TO TAKING IT INTO PUBLIC OWNERSHIP. COMMISSIONER BROILI SECONDED THE MOTION.**

Commissioner Hall said that when he approached the City Council regarding this issue as a private citizen, he pointed out that if the City approves a proposal with conditions to mitigate impacts, they must hold developers accountable for meeting all of the conditions associated with the approval.

Commissioner McClelland and Chair Piro expressed concern about referring to the open space as a park at this time. Commissioner McClelland recalled that the whole objective was that the south end of Echo Lake, through this condition, would be mitigated and restored to a better condition. It's the developer's responsibility to meet all of the conditions outlined as part of approval. The restoration must be done first, and then the City could decide to accept it as public open space.

Commissioner Harris pointed out that the developer is seeking two benefits. First, he's trying to alleviate his responsibility to restore the area. Second, once he donates it to the City he relieves himself of the perpetual maintenance, responsibility and insurance associated with the open space. He concluded that if the City wants to take control of the open space and direct restoration, at the very least the applicant should be required to pay a fee sufficient to meet the established conditions.

Commissioner Pyle suggested the City may need to monitor the timeframe for restoration since this is an integral component to the restoration and mitigation of the site. Mr. Cohen advised that the condition includes monitoring the restoration for two years.

**COMMISSIONER HALL MOVED TO AMEND HIS MOTION TO READ, THE PLANNING COMMISSION RECOMMEND TO THE CITY COUNCIL THAT THE AREA AROUND THE SOUTHERN MARGIN OF ECHO LAKE WOULD BE IDEAL TO BE IN PUBLIC OWNERSHIP IN THE FUTURE, HOWEVER, THE REZONE CONDITIONS INCLUDING RESTORATION AND MONITORING MUST STILL BE FULFILLED BY THE DEVELOPER. IF THE CITY WANTS TO TAKE POSSESSION OF THE AREA PRIOR TO THE CONDITIONS BEING SATISFIED, THE DEVELOPER SHOULD PAY THE CITY AN AMOUNT THAT IS ADEQUATE FOR THE CITY TO SATISFY THE CONDITIONS. THE ADMINISTRATION OF SHORELINE'S DEVELOPMENT CODE AND PERMIT PROCESS DEPEND ON PREDICTABILITY AND ENFORCEMENT OF PERMIT CONDITIONS. THE PUBLIC'S EXPECTATION (ESTABLISHED THROUGH THE PUBLIC PROCESS FOR**

**SOUTH ECHO LAKE) WAS THAT THE PERMIT APPLICANT WOULD MEET CERTAIN CONDITIONS, AND THEY SHOULD BE ENFORCED PRIOR TO TAKING IT INTO PUBLIC OWNERSHIP. COMMISSIONER BROILI SECONDED THE MOTION TO AMEND. THE AMENDED MOTION CARRIED UNANIMOUSLY.**

**Transit Resolution**

Chair Piro recalled that the Commission previously drafted a proposed resolution to move forward to the City Council that was intended for three transit agencies: Metro, Community Transit and Sound Transit. However, the transmittal is still in the City Manager's Office and has not yet reached the City Council. He expressed concern that staff chose not to forward the document to the City Council for consideration.

Ms. Simulcik Smith recalled that two staff members were present at the November 29<sup>th</sup> Commission Meeting to discuss with issue with the Commission, but there was insufficient time. The discussion has been rescheduled on the February 7<sup>th</sup> agenda.

Chair Piro emphasized that the resolution is related to a time sensitive matter because the transit agencies are involved in making decisions at this point in time. He said he would meet with staff in an effort to move this discussion to an earlier date.

Commissioner Pyle suggested that perhaps it would be appropriate for a Commissioner to attend the next City Council Meeting and present the resolution in person rather than waiting for the City Manager to move the document forward. The remainder of the Commission agreed that would be an appropriate approach.

**COMMISSIONER BROILI MOVED THAT THE PLANNING COMMISSION TAKE THEIR DRAFT TRANSIT RESOLUTION TO THE CITY COUNCIL. COMMISSIONER PYLE SECONDED THE MOTION.**

Commissioner Hall acknowledge the City Manager and staff for writing a well-crafted letter, based on the City's existing Comprehensive Plan policies in support of having seamless transit across the County line. However, the letter does not even reference the Planning Commission's resolution regarding the matter. He suggested the Commission's resolution be attached to the letter when it is forwarded to the City Council. Again, he stated that if the transit agencies are more concerned with profitability on their favorite routes within their district boundaries, then they are not primarily concerned about providing efficient transit service to the region. That kind of thinking has no place in a region that's facing such tremendous growth. If the transit agencies cannot get past their fiefdoms and think about serving the public, then they must go further than the resolution and seek a legislative fix to make it impossible for the situation to continue.

Chair Piro said he received communication from Mr. Kirk McKinley suggesting that the resolution was held up based on concern about the implications it might have for potential funding opportunities in the future. Ms. Simulcik Smith announced that Mr. McKinley plans on inviting representatives from each of the three transit agencies to the February 7<sup>th</sup> meeting.

**THE MOTION CARRIED UNANIMOUSLY.**

Chair Piro indicated he would present the transit resolution to the City Council at the same time he presents the Commission’s position on the South Echo Lake Project.

**NEW BUSINESS**

There was no new business scheduled on the agenda.

**ANNOUNCEMENTS**

There were no announcements.

**AGENDA FOR NEXT MEETING**

Mr. Cohen said that although Mr. Tovar was unable to attend the meeting, he wanted the Commissioners to receive a copy of the agenda planner so it could be discussed at the next meeting.

Chair Piro noted that the continued public hearing for the Ridgecrest Commercial Area Zoning Proposal has been scheduled for January 3, 2008. There would be no special meeting in December.

Commissioner Wagner announced that the Commission’s holiday party is scheduled for December 20<sup>th</sup>. She would email details to each Commissioner as soon as possible.

**ADJOURNMENT**

The meeting was adjourned at 9:15 P.M.

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Rocky Piro  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission