

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

March 16, 2006
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

COMMISSIONERS PRESENT

Chair Harris
Vice Chair Piro
Commissioner Kuboi
Commissioner Broili
Commissioner MacCully
Commissioner Phisuthikul (arrived at 7:08 p.m.)

STAFF PRESENT

Joe Tovar, Director, Planning & Development Services
Steve Cohn, Senior Planner, Planning & Development Services
Glen Pickus, Planner II, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

COMMISSIONERS ABSENT

Commissioner Sands
Commissioner McClelland
Commissioner Hall

CALL TO ORDER

Chair Harris called the regular meeting of the Shoreline Planning Commission to order at 7:05 p.m.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Harris, Vice Chair Piro, Commissioners Kuboi, Broili, and MacCully. Commissioner Phisuthikul arrived at 7:08 p.m. and Commissioners Sands, McClelland and Hall were excused.

APPROVAL OF AGENDA

The agenda was approved as submitted.

DIRECTOR'S REPORT

Mr. Tovar advised that the staff received an invitation to speak to the Highland Terrace Neighborhood Association on April 18th. At that time, staff plans to update them on what is going on in the City and answer their questions. He recalled the Commission's previous discussion about doing outreach with

various neighborhood groups in the City and suggested that one or two Commissioners might want to attend the meeting as well.

Vice Chair Piro said he received an invitation from the Echo Lake Neighborhood Association to attend its meeting on April 18th, and they asked him to extend the invitation to the City's Planning Director, as well. Mr. Tovar suggested that one or two Commissioners be assigned to attend.

Mr. Tovar announced that the public hearing date for the permanent ordinance for Hazardous Trees and Critical Areas Stewardship Plan was changed from April 6, 2006 to May 18, 2006. Staff is still working on the language, which should be available early April for Commission and public review. It would also be forwarded to various State agencies for comments and recommendations.

APPROVAL OF MINUTES

COMMISSIONER BROILI MOVED THAT THE MINUTES OF FEBRUARY 16, 2006 BE APPROVED AS DRAFTED. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

VICE CHAIR PIRO MOVED THAT THE MINUTES OF MARCH 2, 2006 BE APPROVED AS CORRECTED. COMMISSIONER MACCULLY SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

GENERAL PUBLIC COMMENT

Bob Barta, 15703 – 1st Avenue Northwest, advised that he represents the Highland Terrace Neighborhood Association, and its members are concerned about how the City would accommodate the projected population growth over the next 20 years. He said they are particularly concerned about how to keep the school system healthy. He noted that only about 30 percent of the households in Shoreline have school age children, and he fears that number would decrease over the years.

Mr. Barta invited all of the Commissioners to attend the Highland Terrace Neighborhood Association Meeting on April 18th. He said he would meet with Mr. Tovar to establish a meeting format, which could possibly be used by other neighborhood groups. Their Association's goal is to work with the City to solve community problems.

PUBLIC HEARING ON PRELIMINARY FORMAL SUBDIVISION FOR SHORELINE TOWNHOMES (FILE #201478)

Chair Harris reviewed the rules, procedures and agenda for the public hearing. He invited Commissioners to disclose any communications they received regarding the subject of the hearing outside of the hearing. None of the Commissioners identified written or oral communications. No one in the audience expressed a concern either.

a. Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Pickus reviewed the staff report for the proposed preliminary formal subdivision application to create 18 zero-lot-line lots and a critical area tract on two contiguous parcels at 1160 North 198th Street. The property owner is Frontier Investment Company, and the applicant and authorized agent is Prescott Homes. Since this is a Type C Application, the Planning Commission is required to conduct an open record public hearing. State Law requires that in order to recommend approval of the application, the Planning Commission must find that it is consistent with City regulations found in Title 20 of the Shoreline Municipal Code (SMC) and that it complies with the provisions for the public health, safety and general welfare.

Mr. Pickus reviewed that a pre-application meeting was held between the City staff and the applicant on June 21, 2005, and a neighborhood meeting was held on July 27, 2005. A second pre-application meeting was held on September 9, 2005, and the City received the application on November 8, 2005. It was determined to be complete on November 17, 2005, and the notice of application was published on November 23, 2005. Because the site did not get posted in a timely manner, the City issued a revised notice of application on December 1, 2005. Several public comments were received during the 14-day comment period. The project required an environmental review, and a Mitigated Determination of Non-Significance (MDNS) was issued on February 7, 2006, with several requirements to ensure the project would not have an adverse impact on the environment. On February 28, 2006 a notice for the public hearing was issued.

Mr. Pickus said the project involves two existing parcels located on the north shore of Echo Lake. Adjacent to the site are multi-family residential developments to the east, west and south and an office building to the north. Echo Lake Park and a portion of the Interurban Trail are about 360 feet east of the site, and the Aurora Village Transit Center and retail shopping center are located about 350 feet to the north. West of the site, up to Aurora Avenue North are some single-family residences and commercial buildings. Mr. Pickus provided pictures of the subject property and adjacent properties.

Mr. Pickus displayed the proposed site plan and noted that the development would consist of 18 townhome units located in 4 buildings. He pointed out the location of the existing wetland, as well as the proposed access for the site. The project would implement Low Impact Development techniques as provided for in the 2005 King County Surface Water Design Manual, including the use of pervious concrete to decrease run-off. The site is currently zoned R-48, which allows 48 units per acre. Because the site is a little more than an acre, it could accommodate up to 55 units. The current Comprehensive Plan designation is High Density Residential, which is intended to serve as a transition area between high-intensity commercial uses and lower-density residential uses.

Mr. Pickus explained that there would be three significant easements across many of the lots. An access and utility easement would be located along the roadway, which crosses every lot. Another utility easement would be located along the large rain garden, and the third easement would be along the proposed pedestrian pathway, which crosses some of the lots.

Mr. Pickus pointed out the Type II Wetland that is located on the subject property. He explained that a minimum buffer of 50 feet and a maximum buffer of 100 feet would be required, and the applicant has proposed a 50-foot buffer. To obtain approval of the minimum buffer requirement, the project must be low-impact or a wetland enhancement plan must be proposed, and the applicant has met both of these criteria. It is a low-impact development in that it meets the requirements of the code and there would be no chemicals stored on site. In addition, only passive uses would be located adjacent to the buffer and the site has been designed to eliminate the risk of adverse impact on the wetland. The proposed buffer and wetland enhancement plan is significant and involves the replacement of invasive plant species with wetland native species and improvements to the hydrology of the wetland. There is one significant tree located on the site, which would be retained. Part of the low concrete bulkhead along the edge of the lake would be removed to improve the hydrologic connection between the lake and the wetland. In addition, the plan proposes a pervious path and raised boardwalk to a viewing platform. Mr. Pickus provided pictures of the existing wetland.

Mr. Pickus advised that the applicant prepared several reports that were attached to the application. The environmental site assessment found that there was still a 500-gallon underground storage tank that likely held heating oil for the house that used to be on the site. They also found a 55-gallon drum that contaminated some of the soil around it. The report recommended certain steps to clean up the site, and this issue was addressed as a condition in the MDNS and in the Staff's Recommended Conditions for Approval.

Mr. Pickus said the public comments fell into three categories. Many people objected to the proposed name of the project, the Echo Lake Townhomes, so the project has been renamed Shoreline Townhomes. The King County Wastewater Treatment Division requested copies of the sewer extension plans. After further discussion with staff, it was determined that the sewer main crossing the site would not be modified, so it would be unnecessary to submit sewer extension plans.

Mr. Pickus said concern was raised about the potential negative impacts of the project on Echo Lake's water quality and wildlife habitat. He explained that with wetland and buffer enhancement and construction of stormwater management flow control, the quality of surface water flowing from the site into Echo Lake would be improved over existing conditions. In addition, the hydrology of the wetland would be improved with the partial removal of an existing concrete wall separating the wetland from the lake and installation of dispersion trenches. The concern that erosion into the lake would be increased by removing the existing concrete wall was addressed by modifying the proposal to include removal of only the portion above the mean high water mark. This would allow a hydraulic connection between the wetland and the lake while still stabilizing the shoreline.

Mr. Pickus said concerns were also raised about increased erosion caused by the concentration of pedestrian activities near the lake. This issue was addressed by modifying the wetland enhancement plan to include a raised boardwalk and viewing platform near the lake. In addition, fencing, signage and increased plantings of rose and snowberry plants along the paths would encourage pedestrians to stay off the ground near the wetland and lake.

Mr. Pickus advised that one comment emphasized the need to properly maintain the proposed pervious concrete roadway. He noted that staff has recommended conditions of approval that include the establishment of a homeowner's association responsible for the maintenance of common facilities, including the pervious concrete and rain gardens.

Mr. Pickus pointed out that, although it was not required, the applicant provided a traffic impact analysis. The analysis made some good recommendations that staff is recommending be implemented under the conditions of approval. They include putting a crosswalk at the entrance to the site, constructing a fence along the northern boundary to discourage pedestrians from cutting across adjoining properties, installing a gate at the emergency access, providing signage and speed bumps to discourage right turns towards North 199th Street, and painting speed limits on the roadway.

Mr. Pickus said the staff's preliminary recommendation to the Planning Commission is to forward a recommendation of approval to the City Council for the Shoreline Townhomes Preliminary Formal Subdivision Application, with the conditions as described in Attachment U.

b. Applicant Testimony

Craig Anderson, CB Anderson Architects, provided an exhibit of the overall site plan. He pointed out that, in contrast to the other residential buildings in the area, the proposed project would be on a smaller scale. The minimum density allowed on the property would be 16 units, and they are proposing 18. The current zoning would allow up to 55 units. He explained that the units would be owner-occupied, zero-lot-line townhomes. While the design is not set yet, the zone allows a building height of up to 50 feet, and townhomes are generally in the range of 35 to 40 feet high. The ground floor would provide parking, with some heated space on the ground floor for the entry. The living space would be generally located on the second and third floors.

Mr. Anderson reviewed that two parking stalls are planned for each of the units; one in the garage, and one behind the garage door. A pedestrian path would circulate between the townhomes, leading towards the proposed walkway. The border of the driveway would be impermeable concrete and the center would be pervious concrete or asphalt. This would further define the pedestrian pathway throughout the site. He said vehicular and pedestrian access to the proposed project would come via North 198th Street, which would increase the street load by about 16 percent.

Donna Frosthalm, Adolfsen Associates, said she prepared the wetland enhancement plan for the proposed project. She explained that on this site Echo Lake currently has a bulkhead, and the wetland consists entirely of non-native plant species. This has resulted in a fairly degraded system along the lake. The proposed project would provide a 50-foot buffer, as well as a wetland enhancement plan that would include:

- Removing the bulkhead above the ordinary high water mark to increase the connectivity between the wetland and the lake.
- Replacing all non-native plants in the wetland with native species.
- Replacing non-native plants in the wetland buffer with native species.

- Constructing a trail along the outer edge of the buffer and a raised boardwalk with a viewing platform.
- Removing some of the existing concrete and putting in plants instead.

Ms. Frostholm explained that the native plantings would increase the habitat value of the lake and the areas immediately adjacent to the lake. The selected plants would also be lower growing to maintain some views of the lake. The wetland area would be deeded over to the Cascade Land Conservancy; and they would act as stewards, along with the homeowner's group, to maintain the area. She summarized that the proposed enhancement plan would improve a degraded area not only for wildlife, but for the aesthetics of people living in the area.

Erik Davido, Davido Consulting Group, Inc. said he provided the civil engineering consulting services for the proposed project. He announced that a geotechnical study found that the soils on the subject property were mostly sand, with good infiltration. He explained that when modeling the options for the project, they considered the Low Impact Development Best Management Practices found in the 2005 King County Surface Water Design Manual and the Low Impact Technical Guidance Manual for Puget Sound. Mr. Davido emphasized that, given the extensive stormwater runoff system that has been proposed, it is unlikely that surface water from the subject property would ever reach the lake. He briefly explained the following features of the proposed stormwater management plan.

- A bioswale and rain gardens would be used to collect off-site runoff.
- Permeable pavement would be used on site, which would allow water to infiltrate into the ground.
- Two catch basins would be added to accommodate overflow and provide a good indication of when maintenance is required for the permeable surface.
- Small rain gardens would be located throughout the site for roof runoff.
- Some of the runoff and overflow would run into a dispersion trench in the wetland buffer area.
- A substantial erosion control system would include a series of sediment trap ponds to prevent silt-laden water from getting into the infiltration areas and flowing over the permeable pavement.

Mr. Davido recalled that staff has recommended language be provided in the Conditions, Covenants & Restrictions (CCRs) that would require the property owners to maintain the permeable surface areas. Maintenance requires pressure washing and vacuum sweeping once or twice a year, and this would extend the life of the material to 25 years or more.

c. Questions by the Commission to Staff and Applicant

Commissioner Kuboi asked how a homeowner could prevent the pervious pavement from being impacted by freezing and thawing, if water is allowed to permeate through it. Mr. Davido said wintertime problems are not typically an issue, as long as the silt is removed from the surface on a regular basis. Because the catch basis would act as an overflow during times of heavy rain, the water would be allowed to permeate through the surface.

Commissioner Phisuthikul asked if the rain garden proposed for the west side of the property would accommodate only off-site drainage. Mr. Davido answered affirmatively and noted on-site runoff would be handled separately.

Commissioner Kuboi noted that the wetland management plan included a proposal for monitoring and reporting, but he did not notice this same provision for the stormwater management plan to make sure the system would continue to be effective. Mr. Davido said the report does provide a performance standard. The basic test would be to check for ponding after the pavement has been wet for 10 minutes; it is supposed to meet the 10-inches per hour design filtration. If it does not, it is time to maintain the system. This performance standard comes from the King County Surface Water Design Manual, and it is also addressed in the maintenance section of the covenants. Commissioner Kuboi said the maintenance language found in the covenants is very general, and would not require annual monitoring or reporting to make sure it works long-term.

Mr. Davido explained that the catch basins would act as an overflow and an indicator for when maintenance is needed. Mr. Pickus added that the required easement for the detention system would give the City the right to inspect the facility to make sure it is being maintained.

Vice Chair Piro asked if the access that appears to connect the existing condominium complex with the subject property would be maintained at all times or if it would be used for emergency access only. Mr. Anderson answered that primary access would come through the condominium property, and the emergency access would be located on North 199th Street.

Commissioner Broili said he was pleased to see a developer use a proactive, Low Impact Development approach. However, he asked how the proposal would keep people from straying off the boardwalk into the wetland area. Mr. Pickus answered that a split rail fence would be located along the edge of the boardwalk, and the plantings would be designed to discourage people from leaving the boardwalk. Ms. Frosthalm added that the plantings along the trail, boardwalk and platform would be densely planted with a thorny species.

Commissioner Broili recommended that a better approach would be to remove the entire bulkhead and use other methods to mitigate the disturbance that would be created. This would reconnect the habitat as it was originally intended to be. Mr. Pickus said the applicant's original proposal was to remove the bulkhead. But as they were discussing the issue with the Department of Fish and Wildlife, it was recommended that it not be removed in its entirety.

Commissioner Broili asked if the developer would use best soil management practice approaches throughout the entire site when finished. He noted that the 2001 Western Washington Stormwater Manual calls for the placement of 12 inches of organic materials to mimic what would have been found in native soils. Mr. Davido answered that in the rain garden areas there would actually be 2 feet of amended soil, which would more than meet the requirement. Commissioner Broili asked if the same approach would be applied in areas other than the rain garden and the wetland buffer areas. He said the manual suggests that this concept be used in all new developments to provide permeable rather than compacted soils. Mr. Davido said he suspects the landscape plan has incorporated this concept for all planting areas, but he would confirm this with the landscape architect.

Commissioner MacCully asked why the applicant decided to provide access to the site from North 198th Street instead of North 199th Street. He pointed out that North 198th Street has a much more significant grade than what exists on North 199th Street. **Greg Kappers, Prescott Homes**, answered that North 199th Street would have to be widened and significantly improved to accommodate the traffic. This would require them to negotiate additional easement area from each of the property owners. It would likely involve the removal of front yards, garages, driveways, etc. They already have control of the property to the south, which provides access to a public road system. He suggested that North 199th Street might actually be steeper than North 198th Street.

Chair Harris said Commissioner McClelland, who was absent from the meeting, asked him to point out the lack of pedestrian accessibility to the shopping center and transit center to the north. He asked if staff considered whether or not this area is underserved by pedestrian access. Mr. Pickus said there are no opportunities to provide additional pedestrian access along the street since the subject property is bordered on all sides by private property.

Commissioner Broili commented that the State Department of Transportation uses best soil management practices for disturbed soils during construction. He asked if the developer has discussed the option of using this same approach. Mr. Davido answered that groundcover measures would be used, but they also propose to go one step further. During construction, the sediment traps would collect all the runoff and allow the silt to settle before the water could flow out into the dispersion trenches.

Vice Chair Piro said one comment letter suggested that the application was vested prior to the City's latest update of the Critical Areas Ordinance, so a lesser buffer area would be required. Mr. Pickus explained that the project is vested under the current Critical Areas Ordinance, since the new ordinance does not go into effect until next week. The buffer requirements of the new ordinance are different.

Vice Chair Piro said some comment letters also made observations on the deteriorating condition of Echo Lake. He asked if the City staff is aware of these issues and if the water quality of the lake is being monitored on a regular basis. He also asked if there is a management plan that involves property owners with land adjacent to the lake, including the applicant. Mr. Tovar added that while there is not program of this type in place right now, the health and dynamics affecting natural systems like Echo Lake could be one element of a future natural resource management plan.

Vice Chair Piro agreed with Commissioner Broili and said he was very impressed with the work of the applicant and staff to advance a scheme that uses Low Impact Development techniques and tools.

Commissioner Phisuthikul asked if the riparian conservation area would become a potential public access area if it were deeded to the Cascade Land Conservancy. Mr. Kappers answered that public access would be restricted by the plat; and by virtue of the deed and the land trust, it would not be opened to the public. It would not be the Conservancy's intent to open the wetland to public, but the residents within the plat would have access to it.

Commissioner Kuboi asked if the Public Works Department had any particular comments to make after their review of the stormwater features of the project. Mr. Pickus said they requested some minor corrections, which the applicant incorporated into the design. No significant objections were raised.

d. Public Testimony or Comment

Bob Whiteley, 1411 North 200th, D-2, said he resides in the Echo Lake Townhomes and is a member of the Echo Lake Neighborhood Association. He said that for two years, there was a program for basic testing of the water quality of Echo Lake, but this program was cancelled last year because of lack of funding. The work was done on a volunteer basis by the Echo Lake Neighborhood Association, and King County Metro did the actual testing procedures. Sampling data can be obtained from King County Metro.

Mr. Whiteley expressed his concern about the condition of the lake, which appears to have deteriorated more rapidly in the last five to seven years. He said the condition appears to be worse at the south end of the lake where the large drain from Aurora Avenue and the transit lot enters the lake. He said that while the proposed project would have some impact on the lake, it would be very minor. However, any development on property with storm drains connected to the Echo Lake Drainage Basin would have an impact on the water quality of the lake. Rather than look at one project at a time, he urged the City to take a broad view of the existing condition of the lake and what it can handle.

Mr. Whiteley asked what would happen to oil that is dripped onto the permeable surface in the new development. Since the water either stays in the soil or goes into the lake, he questioned how much the soil could handle before it would become contaminated.

Mr. Whiteley noted that the cinderblock wall on the east side of the subject property is owned by the applicant. He suggested that it should either be repaired or replaced at the time of construction. He also emphasized that during the winter time the level of water normally stabilizes, but in late September or October the southerly winds push the water onto the subject property. About six or seven times a year, the lake gets higher than expected, and they have to clean the leaves off the overflow grate.

Mark Deutsch, 19715 Ashworth Avenue North, commended the developer, Prescott Homes, for the excellent practices they are proposing to exercise. He commended the Planning Department staff for following up on comments from neighbors, as well as enforcing good water quality practices. At the same time, he said he is somewhat concerned about the intensity of the proposed development on what was originally a single-family property. He also suggested that even though the current Critical Areas Ordinance allows a minimum buffer of 50 feet, they could reduce the number of units by at least two to extend the buffer area.

Mr. Deutsch asked how the City would ensure the development does not result in negative impacts to the wetland area or the lake. He also questioned where the development's common area would be located. He noted that Echo Lake Park is rather small to handle these extra people. He also asked if a playground area would be provided as part of the development, since there is not one at Echo Lake Park.

Mr. Deutsch said he appreciates that the applicant completed a traffic study, even though it was not required. Currently, there is not a high number of pedestrians, but it is a great area for people to make use of the transit system. He said he does not expect today's conditions to remain true for the future, and he is concerned about the safety of pedestrians in this area.

Bob Baliey, 1411 North 200th, said he also lives in the Echo Lake Townhomes. He said he has a problem with people going over the cement wall and through their property to access the lake. He suggested that the proposed fence on the north side extend all the way down to the lake.

Mr. Pickus clarified that the multi-family development regulations require 170 square feet of recreational open space for each dwelling unit. The proposed project would meet this requirement, mainly through decks and patios, which the code allows. A "tot lot" would not be required because of the property's close proximity to Echo Lake Park.

Mr. Pickus referred to Mr. Deutsch's question about how City staff knows the proposed stormwater plan would work to protect Echo Lake. He said the City relies on the 2005 King County Stormwater Design Manual, which was developed by engineers; and the proposed plan would meet all of the requirements.

Regarding the overall health of Echo Lake, Mr. Davido pointed out that any development that drains into the lake would fall under the more stringent requirements found in the King County Manual. The proposed project, with its Low Impact Development would more than meet the requirements. In addition, he said the Puget Sound Low Impact Development Manual references several studies. For example, the University of Washington compared the runoff from regular asphalt with the runoff from permeable concrete. While there was a significant amount of oil in the runoff from the regular asphalt, there was no runoff from the permeable materials. The study also showed that oil would not degrade the overall performance of the permeable pavement.

Mr. Anderson pointed out that access through the condominium project would be striped with a 5-foot wide lane to help identify the areas where pedestrians might be. In addition, it is possible for pedestrians to go up North 199th Street, as well. He summarized that there would be numerous routes for pedestrians to travel.

Jennifer Ting, Transportation Engineering Northwest, advised that she conducted some peak hour traffic counts on North 198th Street and found that vehicles were traveling below or at the speed limits because of the short distance of the street from Aurora Avenue North to the existing Echo Lake Condominiums. She concluded that the conflict between pedestrians and vehicles should be minimal.

Commissioner Kuboi referred to Mr. Pickus' comment that if a park is located within in ¼ mile of a proposed multi-family development, a "tot lot" would not be required. He noted that the subject property is surrounded by private property, so legal access to the park would be greater than ¼ mile. He also noted that there is no tot lot at Echo Lake Park. Mr. Pickus read SMC 20.50.160 and explained that to apply this provision, staff measures from the edge of the subject property to the edge of the park to make sure it is less than ¼ mile. The provision does not address the route that must be taken to access the park. Vice Chair Piro agreed with Commissioner Kuboi that the provision should factor in

accessibility. He suggested that the Commission consider a condition that would require a tot lot since a person would have to walk at least ½ mile to access the park from the subject property.

Commissioner Kuboi said that if the staff's application of the ¼ mile consideration is the prevailing convention amongst professional planners in the area, he would be uncomfortable changing it for just one application. If the Commission thinks there is a problem, they must address it within a broader context by changing the language in the code. Commissioner Broili agreed. However, he felt the intent of the code was that a person should be able to walk less than ¼ mile to reach a park.

Commissioner MacCully expressed his concern over how much pedestrian traffic would be coming on and off the property from people who don't live there, but want to walk through it. He noted that most of the parking lots for the developments in the area seem to connect. When the road is increased in size, it might provide an easier path for people to get to Aurora Avenue.

Chair Harris recalled that the City of Shoreline is very concerned about meeting their target housing goals. He questioned why the applicant chose to develop the property with significantly fewer units than would be allowed. Mr. Kappers answered that they used to do a lot of condominiums, but insurance issues forced them out of the market. As a result, they started constructing infill townhomes, where they could plat the lots and sell them as fee simple residences. The apartment market would not support condominium development in this location. While the proposed project does not represent the most density or the highest and best use, it does represent what the market would bear. Given all of the constraints they had to deal with, they tried to maximize the number of units.

Commissioner Kuboi asked if Cascade Land Conservancy would have any say regarding the approval of a particular biologist to determine whether the proposed buffer enhancement program would work. He expressed his concern about how the City would ensure that the scientific expertise used for the report is credible and objective. Mr. Tovar said the City Council raised this same issue during their review of the Critical Areas Ordinance. He explained that if the City decides that a submitted report is not credible and/or objective, they have the ability to obtain their own professional review, and the cost of the report would be paid for by the applicant. This enables the City to ensure that they get an objective and credible analysis of what is going on.

Commissioner Broili suggested the applicant consider the option of providing handrails on the boardwalk as a way to encourage people to stay out of the wetlands. In addition, he asked how the City would ensure that the wetland is not degraded after the 5-year monitoring program stops. Mr. Pickus said the theory is that, after five years of passing the performance standards, the vegetation would be mature and prevail over any of the evasive species. There is no provision in the code for any monitoring requirements beyond five years.

e. Presentation of Final Staff Recommendation

Mr. Pickus said the staff's final recommendation to the Planning Commission is to forward a recommendation of approval to the City Council for the Shoreline Townhomes Preliminary Formal Subdivision Application, with the conditions as described in Attachment U.

f. Final Questions by the Commission and Commission Deliberation

Commissioner MacCully asked if the partnership with Cascade Land Conservancy would be a requirement or just something the applicant is proposing to do. Mr. Kappers explained that the wetland must be deeded out into a separate tract. The agreement with Cascade Land Conservancy would be to deed the property over to them, with an endowment to take care of future maintenance of the wetland if the homeowner's association were to fail. Whether the wetland were deeded to the Conservancy or not, the proposal would not change. Mr. Pickus emphasized that the City would not be involved in the agreement at all.

g. Closure of the Public Hearing

No one in the audience had any further comments to provide.

VICE CHAIR PIRO MOVED THAT THE PUBLIC HEARING BE CLOSED. COMMISSIONER MACCULLY SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

h. Vote by Commission to Recommend Approval or Denial or Modification

COMMISSIONER MACCULLY MOVED THAT THE COMMISSION RECOMMEND, TO THE CITY COUNCIL, THE STAFF RECOMMENDED CONDITIONS OF APPROVAL FOR THE SHORELINE TOWNHOMES PRELIMINARY FORMAL SUBDIVISION. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.

Commissioner Broili pointed out that the applicant has gone the extra mile to propose a project that would be beneficial to the City in terms of the way they manage the stormwater and property. However, he encouraged the developers to think about providing some type of recreational space on site.

COMMISSIONER PHISUTHIKUL MOVED THAT THE MAIN MOTION BE AMENDED TO MODIFY THE LANGUAGE IN #3.C OF THE STAFF RECOMMENDED CONDITIONS OF APPROVAL (ATTACHMENT U OF THE STAFF REPORT) TO REQUIRE "PERPETUAL" MONITORING OF THE WETLAND AND ITS BUFFER; AND TO ADD THE WORD "PERPETUALLY" TO CONDITION #12 (4TH BULLET POINT, THIRD PARAGRAPH) TO READ "...MUST BE MAINTAINED PERPETUALLY..." COMMISSIONER BROILI SECONDED THE AMENDMENT FOR DISCUSSION PURPOSES.

Commissioner Phisuthikul explained that his proposed amendment would ensure that the wetland and its buffer are maintained even after the initial five years. It would also ensure that the low impact elements of the stormwater management plan are maintained in perpetuity. He noted that if either were to fail, the whole project would become a negative impact on the lake.

Vice Chair Piro pointed out that if the elements of the stormwater management program do not function appropriately, the wetland and buffer areas would be negatively impacted. Therefore, it would only be necessary to require that the wetland and its buffer be maintained properly.

Commissioner Broili said the Cascade Land Conservancy's reputation is good in terms of appropriate management of the lands they have responsibility for. If they are going to own the buffer area, he is comfortable that the wetland and its buffer would be monitored and maintained appropriately.

Commissioner MacCully pointed out that the homeowner's association would be required to maintain the wetland and its buffer forever, so he is not sure why it would be necessary to monitor the wetland every year in perpetuity. He noted that all of the other conditions must be met.

Commissioner Kuboi said he believes the applicant has met the test of due diligence and has offered features in the project that the Commissioners all collectively like to see. He would not be in favor of adding onerous conditions without a clear benefit. He said he would support the staff recommendation as proposed. Commissioner Broili concurred.

THE MOTION TO AMEND FAILED 1-5, WITH COMMISSIONER PHISITHIKUL VOTING IN FAVOR AND CHAIR HARRIS, VICE CHAIR PIRO, COMMISSIONER KUBOI, COMMISSIONER MACCULLY, AND COMMISSIONER BROILI VOTING IN OPPOSITION.

At the suggestion of Vice Chair Piro, the Commission discussed whether it would be appropriate to add another condition requiring a "tot lot" recreation area as part of the project. The majority of the Commissioners agreed that it would not be an appropriate condition.

COMMISSIONER PHISUTHIKUL MOVED THAT THE MAIN MOTION BE AMENDED TO MODIFY THE LANGUAGE BY STRIKING "FURTHER PROPOSED SUBDIVISION OR" IN CONDITION #12 (1ST BULLET POINT) OF THE STAFF RECOMMENDED CONDITIONS OF APPROVAL (ATTACHMENT U OF THE STAFF REPORT). THE NEW PARAGRAPH WOULD READ "ANY ADJUSTMENTS TO THE LOT LINES WITHIN THIS PLAT MUST..." VICE CHAIR PIRO SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Commissioner Phisuthikul expressed his concern that future subdividing would result in more than 18 units on the subject property. Chair Harris pointed out that because the current zoning for the property is already R-48, more development on the property would not necessarily be bad if it were designed appropriately. Any additional subdivisions would require further Planning Commission review and City Council approval.

THE MOTION TO AMEND FAILED 1-5, WITH COMMISSIONER PHISITHIKUL VOTING IN FAVOR AND CHAIR HARRIS, VICE CHAIR PIRO, COMMISSIONER KUBOI, COMMISSIONER MACCULLY, AND COMMISSIONER BROILI VOTING IN OPPOSITION.

THE MAIN MOTION TO RECOMMEND, TO THE CITY COUNCIL, THE STAFF RECOMMENDED CONDITIONS OF APPROVAL FOR THE SHORELINE TOWNHOMES PRELIMINARY FORMAL SUBDIVISION WAS UNANIMOUSLY APPROVED.

The Commission complimented staff for providing excellent materials and information for them to consider. They also thanked the public for attending the meeting and expressing their viewpoints. They agreed that the new public hearing process allows for a better flow of communication between the applicant, public, staff and Planning Commissioners.

REPORTS OF COMMITTEES AND COMMISSIONERS

Commissioner MacCully announced that after much thought, he has decided to withdraw his application for a second term on the Commission. He read the letter of resignation that he submitted to the City Council to explain the basis for his decision.

Vice Chair Piro said he has valued the depth of thought that Commissioner MacCully has offered to the Commission over the past four years. He expressed that he would be sorely missed by all Commissioners.

UNFINISHED BUSINESS

No unfinished business was scheduled on the agenda.

NEW BUSINESS

a. Potential Amendment to Bylaws

Mr. Cohn referred the Commission to the existing bylaws, which outline the Commission's typical meeting agenda. He said staff is recommending that Number 7 be changed to reflect the new process that was used for the last two public hearings.

COMMISSIONER BROILI MOVED THAT THE COMMISSION MODIFY ARTICLE 4, SECTION 3 OF THE PLANNING COMMISSION BYLAWS TO REFLECT THE FOLLOWING PUBLIC HEARING FORMAT, AND MODIFY THE NUMBERING OF THE ORDER OF BUSINESS TO REFLECT THIS CHANGE:

7. PUBLIC HEARING

- a. STAFF OVERVIEW OF PROPOSAL AND PRELIMINARY RECOMMENDATION**
- b. APPLICANT TESTIMONY**
- c. QUESTIONS BY THE COMMISSION TO STAFF OR APPLICANT**
- d. PUBLIC TESTIMONY OR COMMENT**
- e. PRESENTATION OF FINAL STAFF RECOMMENDATION**
- f. FINAL QUESTIONS BY THE COMMISSION AND COMMISSION DELIBERATION**

- g. CLOSURE OF PUBLIC HEARING**
- h. VOTE BY COMMISSION TO RECOMMEND APPROVAL, MODIFICATION OR DENIAL**

VICE CHAIR PIRO SECONDED THE MOTION.

Again, Commissioner Broili expressed that the new hearing process allows for better communication and a more thorough hearing process.

Commissioner Phisuthikul pointed out that earlier in the evening staff was unable to answer technical or legal questions during the Commission's deliberation period because the public hearing had already been closed. Mr. Tovar recalled that at the last meeting, Commissioner Hall pointed out that Snohomish County's hearing process requires that the hearing remain open until after the Commission has taken action, and this would address Commissioner Phisuthikul's concerns.

Mr. Cohn pointed out that the proposed change would keep the public hearing open until after the Commission has completed their deliberations. The Commission could address the problem by waiting to close the public hearing until they are ready to take a vote. However, Mr. Tovar emphasized that the Commission would have to be confident about moving forward with a decision without asking further questions. Chair Harris noted that the Commission would also have the option of re-opening the public hearing, if necessary. Mr. Tovar agreed, but pointed out that this would only be acceptable if no one who participated in the hearing had left the room.

Chair Harris said he believes that closing the public hearing allows the Commission to move to a more formal decision making stage, rather than continuing an informal discussion back and forth. He said he found that the proposed process worked well for the last two hearings. Mr. Tovar suggested that asking technical questions of staff for clarification after the public hearing has been closed would probably not be problematic. But problems could arise if the Commission were to ask substantive questions of staff after closing the record.

Vice Chair Piro suggested the Commission wait to close the public hearing until after a motion has been made and seconded and someone has called for the question. This would allow the Commission to freely ask questions during their deliberations. The remainder of the Commission agreed.

THE MOTION CARRIED UNANIMOUSLY.

b. Planning Commissioners' Attendance at Neighborhood Meetings

Chair Harris reminded the Commission that they were formally invited to attend the upcoming Highland Terrace Neighborhood Meeting. However, he pointed out that if a quorum of Commissioners were to attend, the meeting would have to be advertised to the public. He suggested that he and Commissioner Hall attend the Highland Terrace Neighborhood Meeting on behalf of the Commission. Vice Chair Piro and Commissioner Kuboi voiced their plans to attend the Echo Lake Neighborhood Meeting.

c. Planning Commission Retreat

Vice Chair Piro inquired regarding the status of the Planning Commission Retreat. Chair Harris answered that this issue would be discussed by the Commission after all of the new members have been appointed. Vice Chair Piro suggested that the Commission at least schedule a date and location for the retreat as soon as possible. The remainder of the Commission agreed to discuss possible dates for the retreat at their April 20th meeting.

Mr. Tovar recalled that the Commission previously discussed the option of holding a joint meeting with the Park Board to review some substantive issues. In addition, staff has suggested that perhaps it would be appropriate for the Planning Commission, Park Board and the City Council to meet together for training purposes and to discuss various issues. The Commission agreed that it would be appropriate for staff to propose possible dates for this joint meeting to occur.

ANNOUNCEMENTS

Mr. Tovar reported that Tim Stewart, previous Shoreline Planning Director, accepted a position as the Planning Director for the City of Bellingham.

AGENDA FOR NEXT MEETING

Chair Harris reviewed that the agenda for April 6, 2006 would include the election of Planning Commission Officers and a public hearing on a Comprehensive Plan amendment and rezone proposal submitted by Sundquist Homes for property located at 15th Avenue Northeast. The public hearing on the permanent Hazardous Tree Regulation and Critical Areas Stewardship Plan was postponed.

ADJOURNMENT

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

David Harris
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission