

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF SPECIAL MEETING

April 14, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

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

STAFF PRESENT

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

ABSENT

Chair Harris
Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

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

2. ROLL CALL

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

3. APPROVAL OF AGENDA

The agenda was approved as presented.

4. DIRECTOR'S REPORT

Mr. Stewart announced that the April 19th meeting with the City Council, the Planning Commission and the Innis Arden Club has been cancelled at the request of the club.

Mr. Stewart reported that the Commission has been invited to a dinner meeting with the City Council on May 9th. He asked the Commissioners to contact Ms. Simulcik to indicate whether or not they would be available for the meeting.

Mr. Stewart reviewed the items that were included in the Commissioner's mail envelopes. He referred to the termination notice to Mr. Harley O'Neil regarding the City Hall site. This issue was introduced at a pre-hearing conference with the Hearing Examiner regarding the Echo Lake proposal. He recalled that at the last meeting the Commission discussed the option of retaining the Comprehensive Plan designation for Public Open Space as it is currently shown, with an option of changing the balance of the property to Mixed Use. The map on the yellow sheet illustrates this concept. Also in the packet is a copy of an email from Dick Deal, Shoreline Parks, Recreation and Cultural Services Director, confirming that if the City does not complete the update of the Comprehensive Plan by early June, then the City's ability to apply for IAC grants would be taken away. This would have serious consequences because they are anticipating applying for a major grant for the Boeing Creek Restoration Project. Mr. Stewart then referred the Commission to the Hearing Examiner's decision. He also referred to a handout staff provides to all citizens showing the appropriate zoning by Comprehensive Plan districts. Next, he distributed a new Page 15 of the Commission packet to clarify the issue related to a change in Comprehensive Plan designation. Lastly, Mr. Stewart announced that at the request of Commissioner Kuboi, staff redrafted the findings (found in the April 21st packet). Mr. Stewart advised that staff would be happy to complete additional work at the request of the Commission before the April 21st meeting.

Other than the complication noted in Mr. Deal's e-mail regarding the City's ability to apply for grant funding, Commissioner Hall inquired if there would be ramifications in other City arenas, as well. Mr. Stewart answered that the City is not currently eligible to apply for the trust fund because they did not meet the December deadline for completing the Comprehensive Plan Update. However, the situation is not serious since the City does not anticipate any trust fund applications in the next two or three months.

5. APPROVAL OF MINUTES

No minutes available for approval.

6. GENERAL PUBLIC COMMENT

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

7. PUBLIC HEARING

Type C Quasi-Judicial Public Hearing: Echo Lake Site-Specific Comprehensive Plan Land Use Map Amendment

Vice Chair Piro emphasized that the public hearing would be on the proposed Echo Lake Site-Specific Comprehensive Plan Land Use Map Amendment only, and not the rezone proposal. In addition, he noted that the Echo Lake site is no longer under consideration for a new City Hall Complex. Therefore, no public comments would be accepted related to the rezone request, the SEPA appeal, or the City Hall Project. The rezone request and the SEPA appeal would be heard at a joint Planning Commission/Hearing Examiner public hearing scheduled for May 4th and May 5th. He reviewed the rules and procedures for the public hearing. He also reviewed the Appearance of Fairness Rules and inquired if any of the Commissioners had received any ex-parte communications. None of the Commissioners indicated any ex-parte communication. Next, he asked if anyone in the audience had concerns related to Appearance of Fairness.

Brian Derdowski, 70 East Sunset Way, Issaquah, WA 98027, said he represents the Echo Lake City Hall Oversight - People Against Rezone (ECHO-PAR), the appellants of the rezone application and SEPA Determination that is directly related to the proposed Comprehensive Plan amendment. He pointed out that the Comprehensive Plan amendment proposal is a quasi-judicial action, as is the rezone proposal. Therefore, the Commission's determinations must be made based on the record, which must be fairly constructed with a reasonable opportunity for all sides to provide information. He stated that the Commission meeting minutes show that there have been numerous instances in which the Commission has heard information about the rezone and Comprehensive Plan amendment proposals, as well as the various proposed site configurations for the purchase and sale agreement for city hall, which is no longer an active proposal.

For example, Mr. Derdowski referred to a situation that occurred several weeks ago in which his client, Janet Way, was prohibited from making any comment to the Commission about a matter related to the proposed Comprehensive Plan amendment and rezone request because it was considered a quasi-judicial matter. However, the City staff later provided a 20-minute pitch describing all of the wonderful features of the proposed Comprehensive Plan amendment, rezone and site configuration. Again, Mr. Derdowski pointed out that both the Comprehensive Plan amendment and the rezone proposal are quasi-judicial issues. He said that while the record for the Comprehensive Plan amendment would be opened and closed tonight, the Commission has already received extensive information about the application, and this should be considered ex-parte communication. A reasonable person could conclude that the Commission has prejudged the Comprehensive Plan and rezone actions.

Vice Chair Piro said the initial briefing the Commission received from staff a few weeks ago followed the standard procedures that are in place to provide an introduction to the issue prior to holding a public hearing. He pointed out that the Commission has also appropriately received communications that have been submitted to the City from the applicants and public. Mr. Stewart added that it is important to

remember that ex-parte communications refer to communications that occur outside of the public record. The communications that have taken place between the staff and Commission are all part of the public record and can be fully disclosed to anyone who wants to review them. Therefore, he disagreed with Mr. Derdowski's opinion.

Commissioner Hall invited Mr. Derdowski to identify any Appearance of Fairness issues he might have regarding specific Commissioners. Mr. Derdowski responded that he has deep concerns about the construct of the record and when it was opened. He suggested that since the public hearing is just being opened tonight, all other information the Commission has previously heard regarding this matter should not be part of the record. Mr. Derdowski stated his belief that Commissioner Hall had prejudged the matter and that he had extensive communications with staff and the applicant both orally and in writing. He noted that none of Commissioner Hall's individual conversations with staff have been included in the record.

Commissioner Hall emphasized that he has had no communication with the proponents of the project. However, he has had communications with City staff on a number of occasions, seeking their advice on what can and cannot be done when reviewing the written public comments. There were concerns raised regarding the Public Open Space, so he wanted further information regarding the City's open space policies. At the last meeting, he mentioned that he had asked staff if it was within the Commission's authority to amend the proposal, and the yellow handout that was provided by staff is related to this inquiry. Commissioner Phisuthikul said that he, too, communicated with the staff regarding the proposals. He asked for clarification and additional information that he felt was pertinent to the application. The intent of his inquiries was to gain a better understanding of the issues.

Vice Chair Piro again stated that he believes the disclosed contacts would be considered appropriate communications. He summarized that he sees no reason to limit any of the Commissioners from participating fully in the public hearing. Commissioner Kuboi agreed and stated his belief that Commissioner Hall's actions show that he is willing to do all appropriate due diligence in order to make a decision in concert with the goals of good public policy. He applauded him for his efforts. None of the Commissioners identified any additional issues related to the Appearance of Fairness rules and their ability to impartially participate in the hearing. Therefore, Vice Chair Piro opened the public hearing.

Ms. Lehmborg presented the staff report for the Echo Lake Comprehensive Plan amendment proposal and provided photographs of the site. She explained that the western portion of the property along Aurora Avenue is developed as commercial business. The interior portion of the subject property is developed as a trailer park. There is also a wetland area (Echo Lake) on the site. She said the applicant's proposal is to modify the existing Comprehensive Plan designation to make the entire parcel Mixed Use. Currently, the subject property has three different Comprehensive Plan designations: Mixed Use on the western portion, High Density Residential on the eastern portion and a 50-foot wide strip along the north property line that is designated as Public Open Space.

Ms. Lehmborg displayed a conceptual site plan, showing a configuration for mixed use development if the entire parcel was designated as Mixed Use. She noted that the current R-48 zoning would be compatible with the Mixed Use designation, as would the current regional business zoning. She

explained that the current development code requires a 100-foot buffer from a Type II Wetland (Echo Lake), and the proposed new Critical Area Ordinance would require the buffer to be 115 feet. The conceptual site plan shows a 115-foot wetland buffer.

Ms. Lehmborg advised that staff recommends that most of the developable area be changed to Mixed Use, and the area that encompasses the wetland area to Private Open Space. She explained that the underlying zoning designation would remain the same and would be compatible whether designated Public or Private Open Space.

Mr. Stewart referred to the alternative motions that were presented for the Commission's consideration. Ms. Lehmborg summarized that staff's recommendation is to change the Comprehensive Plan Map land use designation for the subject parcel from High Density Residential, Public Open Space and Mixed Use to Mixed Use for the developable portion and Private Open Space for the wetland buffer area. The applicant's request is to have the entire lot designated as Mixed Use. In addition, Commissioner Hall suggested that they could designate the area that is currently identified as High Density Residential as Mixed Use, and keep the area designated as Public Open Space as it currently exists.

Michael H. Trower, 2077 East Howe Street, Seattle, WA 98122, advised that he is a development consultant working with Echo Lake Associates. He said the applicants support the staff's recommended Option 1 (Mixed Use & Private Open Space). He asked that staff provide clarification regarding the recommendation to designate the Private Open Space as the wetland's buffer. This appears to be redundant because it would already be identified as open space. Otherwise, he said the applicants understand the need for open space, and they are in support of providing Private Open Space as per Option 1.

Mr. Trower referred to staff recommendation Option 2, which suggests that the existing public space remain as Public Open Space. He noted that if the area were designated as Public Open Space, the public would use it. However, the City has not come forward to purchase this property or to pay for the operation and maintenance associated with it. In addition, he noted that the strip along the northern edge of the property, starting at Aurora Avenue and going east, is necessary to the development for access to the parking. In addition, the Fire Department has indicated an interest in this area for emergency access to the development, and they are also interested in the applicant providing access from the subject property onto the property to the north since their access is currently tenuous.

Mr. Trower summarized that the applicants support the application they submitted to change the Comprehensive Plan land use map to Mixed Use. They feel this change would improve the options for developing the property in a very positive way for the community.

Mr. Stewart pointed out that both the Public and Private Open Space designations in the Comprehensive Plan contain very specific words that the underlying zoning would prevail. Therefore, the designation on the plan for Public Open Space includes the intent for acquisition or the possibility for future acquisition for public use. Since the underlying zoning would not change, the City would rely upon the zoning on the land and not the Comprehensive Plan designation. With a Private Open Space designation, the property would be designated for private use only, but the underlying zoning would

prevail. The current underlying zoning would prohibit development within 100 feet of the wetland. Mr. Stewart reminded the Commission that the proposed new Critical Area Ordinance would increase the buffer requirement to 115-feet. The applicant has indicated that he would be willing to designate 115 feet in anticipation of the new Critical Area Ordinance and to designate a portion of the site as open space as part of the development project.

Commissioner Kuboi questioned why a site plan has been submitted for the Commission's consideration when the issue before the Commission is related to the land-use designation only. He suggested that a proposed site plan should not be part of the Commission's consideration. He noted that if the Comprehensive Plan amendment were eventually approved, development of the site could be completely different than what is being identified on the site plan map. Ms. Lehmborg agreed but pointed out that if approved as presented, the 115-foot buffer would be enforced no matter what is developed on the site. Mr. Stewart reminded the Commission that right now, a portion of the property is designated as Public Open Space, and staff thinks it would be appropriate to designate Private Open Space that would be essentially consistent with the buffer, so they can send a message to the community, the developer and the owner that the City would protect the wetland resource.

Commissioner Kuboi referred to the map and specifically pointed out the area that is being considered for the Private Open Space designation. Mr. Stewart further pointed out the boundaries of the proposed buffers, which are consistent with the portion of the property that is being recommended as Private Open Space. He explained that under the land use regulations, a development proposal would be reviewed under the current Critical Area Ordinance. Once the application is approved, the project would be vested under the land use rules in effect at the time it was submitted. Expecting that the Critical Area Ordinance update would increase the buffer requirement, the developer is planning for that change. In any event, the City would utilize the land use law in effect at the time an application is submitted and complete.

Commissioner McClelland agreed with Commissioner Kuboi that it is inappropriate for the Commission to review the conceptual site plan at this time. However, she appreciates being able to see what a 115-foot buffer would look like in proportion to the rest of the site. She said it is important for the Commission to have a clear understanding about how Private Open Space or Public Open Space would protect the wetland. Her understanding is that a buffer is a protected area that protects a critical area from intrusion and harm. However, nothing about the term "private open space" would suggest to her that the buffer would be protected. Given the intensity that is being proposed for future development, she questioned how the City or a private property owner would be able to prevent people from encroaching into the wetland. She questioned if the 115-foot buffer would protect the wetland or not. If not, then it would be irrelevant whether the property is designated as public or private open space.

Mr. Stewart explained that the designation of Public Open Space on private property, without the owner's permission, could be construed as a taking if development rights were taken from the property. Under the 1998 Comprehensive Plan and the current zoning regulation, the Private Open Space designation is advisory, and there is no authority for the City to take, use or acquire the property. The underlying zoning of R-48 would regulate the land use. The designation of Public Open Space on the subject property came out of the CPAC's and was a community policy statement that the City would

like something to happen in the future. The same holds true for the Private Open Space designation. The underlying zoning would govern the actual use, including the critical area. The designation in the Comprehensive Plan provides a benefit because it lets the community and developers know that, as per the Critical Area Ordinance, the property would not be developed.

Again, Commissioner Kuboi asked the staff to provide feedback as to how much project level detail must be considered as part of the Commission's review of the proposed Comprehensive Plan amendment. Mr. Stewart reminded the Commission that the applicant, the appellant and the City made a procedural decision to split the issues, but the staff report that was circulated regarding the proposal was issued prior to this pre-hearing decision. He agreed that project level detail should not be part of the Comprehensive Plan Map amendment discussion.

Commissioner Broili referred to Mr. Trower's comment that if the strip of Public Open Space were left as Public Open Space, it would have an impact on the applicant's ability to provide emergency access to the subject property. He inquired if this access could be moved to another location. Mr. Trower answered that there are likely other possibilities, but the access was planned along the corridor because it works best in terms of siting the buildings and providing access to the property to the north.

Vice Chair Piro inquired if the 50-foot Public Open Space that exists now would be from the proposed building in the north to the property line. Mr. Stewart said the 50 feet would run along the edge of the lake over to the Interurban Trail. Vice Chair Piro inquired if anything would preclude the construction of an emergency access in Public Open Space. Mr. Stewart referred to Land Use Policy 69 in the current Comprehensive Plan regarding the definition for Public Open Space. Commissioner Hall read the policy as follows: "Public Open Space shall be applied to all publicly owned open space and to some privately owned property that might be appropriate for public acquisition. It is anticipated that the underlying zoning for this designation shall remain." He summarized that this policy is advisory rather than a development code. However, since the people who worked hard to designate the Public Open Space on the subject property saw potential for public acquisition, the Commission should be deliberative and sensitive before they consider extinguishing the Public Open Space designation. Vice Chair Piro again inquired if the Public Open Space designation would preclude an emergency access for fire equipment. Mr. Stewart answered that it would not.

Ann Wennerstrom, 19243 Ashworth Avenue North, said she lives across from Echo Lake Elementary school. She said she is opposed to the proposed Comprehensive Plan land use change from high-density residential to Mixed Use. The 1998 Comprehensive Plan places a lot of emphasis on keeping and protecting the character of the neighborhood and accommodating new residential units. The Echo Lake area is lovely, with a school, a park, a sports field, numerous churches and a lot of families. Changing the eastern parcel to Mixed Use would bring more businesses to the area. This would result in more traffic, especially on 192nd as people speed towards Meridian Avenue to get to Interstate 5 and from Costco up Ashworth Avenue. This increase in traffic would significantly change the character of her neighborhood. She pointed out that while the development plan depicts a charming "European Village," it is important to remember that once the designation is changed, the applicant could develop something entirely different. The Mixed Use designation would allow all business uses, without any additional residential units. She noted the significant wording change proposed for Comprehensive Plan Goal 2.

The current language states that “adequate residential land and encourage a variety of quality housing opportunities and appropriate infrastructures suitable for the needs of Shoreline’s present and future residents.” The proposed language would “encourage attractive, stable, high-quality residential and commercial neighborhoods.” There is a significant difference between these two goals. She suggested that there was a reason why this area was identified in the 1998 Comprehensive Plan as residential.

Brian Derdowski, 70 East Sunset Way, Issaquah, WA 98027, said he represents Echo Lake City Hall Oversight - People Against Rezone (ECHO-PAR) who filed the SEPA Appeal on the rezone application. He said that since the rezone proposal is directly related to the Comprehensive Plan amendment, the two actions are linked. Since the SEPA Appeal was filed, ECHO-PAR has been engaged in some very productive discussions with the applicant. They found that they have much in common, and they are working to put together a collaborative, joint proposal. He said he is very impressed with the good will and the goals of the applicant group.

Mr. Derdowski reported that several of ECHO-PAR’s objections in the SEPA Appeal have already been addressed. He recalled that the City has determined that they should separate the Comprehensive Plan from the rezone proposal. Also, the elimination of the purchase and sale agreement has addressed one of the group’s most profound objections. However, they have some procedural objections, and for that reason, he referenced their March 2, 2005 appeal, as well as their comment letter dated February 4, 2005. While these documents were related to the rezone, they also raised substantive issues regarding the procedure for the Comprehensive Plan amendment. The group would also like to add the City’s stream inventory to the record.

Mr. Derdowski reviewed that ECHO-PAR has the right to appeal the City’s SEPA Determination to Superior Court, after the City Council takes action. Therefore, including the SEPA documentation in the record is intended to create the basis for a possible SEPA Appeal. Mr. Derdowski said the group is particularly concerned that the proposed action is based on an outdated and incomplete previous SEPA review and documents. They are also concerned about the construct of the public record, which has apparently been open for months for the staff and applicant, but not for the public. This presents an unfair situation that raises profound Appearance of Fairness problems. He said the group applauds Commissioner McClelland’s initiative in visiting the site. However, she should have put this information in the record prior to the hearing. It would be inappropriate for her to base her decision on something other than the record.

Mr. Derdowski said the group also objects to the lopsided and unfair access to the present public hearing. The staff has had apparently unlimited opportunity to enter information into the record, but the public is limited to three to five minutes. There is no sworn testimony, despite the Commission’s rules and procedures. Neither is there an opportunity to offer expert testimony or cross-examination. The applicant, whom they support, has been invited to provide special testimony, but ECHO-PAR has not.

Mr. Derdowski said the group is in agreement with the intensive Mixed Use designation for the site. They think the applicant is on the right track, and they applaud his efforts to design a high-quality project. After evaluating the City’s mixed use development regulations and those of several other jurisdictions, it is apparent to them that the City’s definition of Mixed Use is ill defined. There are

many uses that fall within Mixed Use, and their impacts have not been evaluated. The City's previous SEPA review considered R-48, but not the full range of impacts of all the uses that are included in the Mixed Use land use designation. The proposal before the Commission and what the applicant has in mind fits within the SEPA review and is probably in the public interest. But if something should happen and the applicant moves on, there are no protections to make sure the impact would not be greater than anticipated.

Mr. Derdowski said the group shares many of the applicant's concerns about the designation of any portion of the site as open space. The City's authority to designate critical areas is very clear, but it is not clear that they have the authority to designate open space as part of zoning. Commissioner Hall pointed out that the open space would revert to the underlying zoning, but one must ask what the underlying land use designation would be.

In summary, Mr. Derdowski said ECHO-PAR has had excellent discussions with the applicant and the YMCA, which is seeking to locate on the subject property. However, they continue to have certain procedural issues. They support Mixed Use, but they believe the City's definition is too broad and ill defined. In addition, they strongly support the protection of the wetland as a critical area. While they do not believe the City has the authority to zone the open space, they could adopt a land use designation of Mixed Use, with a P-Suffix condition that relates to the critical area.

Barbara B. Lacy, 19275 Stone Avenue North, said she lives on Echo Lake. She invited the Commissioners to visit the lake from her house to get a feeling for the ambiance that exists in the area. Ms. Lacy said she has heard concerns about the lake not being clean enough to swim in. She has also heard that it is important to build on the property surrounding Echo Lake because it is all undeveloped on the south end. She said she was excited about the plans for the City to construct a City Hall and park, but now these plans have changed and the site would be used for something else instead. She said she is concerned that the proposed site plan is only a potential plan, and what is actually developed on the subject property might be totally different. She noted that a Mixed Use designation would allow industrial uses and development up to five stories high, and this type of development could significantly change the existing character of the neighborhood. Tragic things could happen if the property were simply changed to a Mixed Use designation. Ms. Lacy suggested that the Growth Management Act thought of Shoreline perhaps a little differently. She said she feels Shoreline is a suburban community, with a lovely lake. They should look very carefully at what they are doing when they consider usage changes.

Commissioner Hall requested that staff explain the SEPA appeal process for the Comprehensive Plan amendment. Mr. Stewart said Mr. Derdowski has also appeared before the City Council indicating his intent to appeal the SEPA Determination on the major update of the Comprehensive Plan, and he has raised various procedural objections in that regard. The City Council has adopted a resolution, merging the 2004-2005 annual Comprehensive Plan review that the subject application is part of and the 2003-2004 major review. As part of the merger, additional SEPA work would be completed prior to the final City Council action. He noted that in the City's development code there are two different types of procedural appeals under SEPA. One type of appeal is to the Hearing Examiner, which is what they are following for the contract rezone. The other type of appeal is on legislative decision. He advised that

while the City is engaged in a quasi-judicial like process, the City Attorney has indicated that it would be appropriate to follow the Appearance of Fairness Doctrine because it is a site-specific process. In the end, the proposed Comprehensive Plan amendment would be a legislative decision, and the SEPA decision could be appealed to Superior Court after City Council adoption.

Commissioner Kuboi asked if a SEPA appeal on the proposed Comprehensive Plan amendments were filed, would it be possible for the City to meet the June deadline and would the City still have an opportunity to apply for grant funding for the Boeing Creek Rehabilitation Project. Mr. Stewart said his understanding is that the final action of the City Council would be sustained until a judge overturns it. While the Superior Court may eventually overturn the decision under the Land Use Petition Act, the City Council's action to approve the Comprehensive Plan amendments would be presumed valid until a court overturns it. Grant funding for the Boeing Creek Rehabilitation Project would be at risk if the City does not complete its adoption of a new parks plan by June 6th. Staff believes the new parks plan should be adopted concurrently with the Comprehensive Plan update.

Commissioner McClelland said that as she reviewed the public comment letters, she noted issues that were not addressed in the staff report. In addition, at some point she would like a clear definition for open space and whether it would be a passive recreation area or a protected buffer. She would also like more information about whether the lake is safe to swim in. She said one public comment letter raised a question about the displacement of wildlife, and she questioned if this is something the Commission should discuss. She would also like to know more about the location of the piped stream and how it would be impacted by the proposed change. In addition, she would like more information about the Weimann house and whether or not it has any historic significance. Lastly, she said traffic was raised in a number of the public comments. Specific concerns were expressed about opening the traffic along 192nd to become a pass through to Ashworth, Meridian or the freeway.

Mr. Stewart said the staff originally consulted with the King County Historic Preservation Planner who advised them that there was no significant historic value to the Weimann property because of its highly denigrated nature. After this was initially entered into the record, staff received a subsequent communication from the planner indicating that after rethinking the issue, he could think of measures the City could take if the house were slated to be destroyed. Ms. Lehmborg said that, typically, these measures include photographic documentation, historic research on the previous owners, putting the house up for sale for a small amount, and having a 90-day waiting period before the house is demolished. Mr. Stewart said issues related to the historic value of the Weimann house would be dealt with at the site planning and project review level.

If the City were to approve a Comprehensive Plan Map amendment to designate the property as Mixed Use as proposed and historic status is given to the property in the future, Vice Chair Piro inquired if the historic status would then be relevant to anything that happens to the property beyond that point in time. Mr. Stewart answered affirmatively and added that this would be the case independent of whether the property is designated in the Comprehensive Plan as Mixed Use or High Density Residential.

Mr. Stewart explained that the level of intensity of development that is allowed under a High Density zoning district is very high, with high coverage of impervious surfaces. This would not be significantly

different than what could occur under a Mixed Use designation. Both the existing designations and those that have been proposed are very intensive land uses.

Commissioner McClelland questioned if the purpose of the required wetland buffer would be to protect habitat. Mr. Stewart answered that this function would be protected under the Critical Area Ordinance at the project level. The State law requires the City to protect the functions and values of the resource.

Mr. Stewart advised that the City's stream and wetland inventory clearly identifies the various watercourses throughout the City. Ms. Lehmborg used the inventory map to describe the location of the piped stream on the subject property. Commissioner McClelland referred to the pipe that runs along Aurora Avenue and questioned if it is a piped stream or a drainage pipe. Mr. Stewart said this pipe has not been formally classified at this point. It is shown in the stream inventory as a piped watercourse.

Commissioner Kuboi reminded the Commission to focus their comments and questions to issues that are directly related to the proposed Comprehensive Plan amendment. Many of the written public comments were related to the contract rezone proposal rather than to the land use change. He emphasized that the underlying zoning would not be changed if the Comprehensive Plan amendment were approved. However, approval of the Comprehensive Plan amendment would set the stage for a future change in zoning when a project level contract rezone is submitted to the City. At that point, many of the issues raised by the public would be addressed.

Vice Chair Piro said it has been suggested that a Mixed Use designation would not actually require a mix of uses. If a Mixed Use designation were approved, there might never be a residential project developed on the site. Mr. Stewart explained that the City of Shoreline determined that its Mixed Use designation under the Comprehensive Plan could be very flexible and allow a multiplicity of various districts to occur within that broad category. The mixture includes Neighborhood Business, Community Business, Office, Regional Business, Industrial and Residential (R-8 through R-48). The Mixed Use designation consolidated a number of the highly fragmented spot zones that were in place when the City incorporated. It encouraged high-quality development by allowing the consolidation of parcels and creativity in land uses. He said specific criteria must be met before rezone proposals could be approved. The criteria would be evaluated when the Commission considers the proposed change to the zoning designation, and the zoning designation determines the types of development allowed on a property.

Commissioner Kuboi inquired if all three of the criteria found on Page 8 of the staff report must be satisfied before the Commission could make a recommendation for approval of a change in a land use designation. Mr. Stewart pointed out that the three criteria contain the word "or" at the end of each. Therefore, the amendment must only be consistent with one of the following criteria:

- The amendment is consistent with the Growth Management Act, countywide planning policies or other Comprehensive Plan policies.
- The amendment addresses changing circumstances.
- The amendment will benefit the community as a whole.

Commissioner Kuboi requested staff to provide insight on how the Commission might approach the evaluation of a proposal to determine whether or not there would be a benefit to the community as a whole. Many people see the Comprehensive Plan amendment as setting the stage for ultimately making the property much more developable, marketable and economically valuable for commercial uses. This represents a significant benefit to the property owner and/or developer. He questioned what public benefit would result from the change. Mr. Stewart advised that there are a number of policies in the Comprehensive Plan to encourage and facilitate economic development, high-quality infill, and creative mixed use developments. Part of the foundation for doing this is to create a larger pallet upon which a developer could draw, and this could be considered a public benefit. Secondly, he said that while high density residential development would be allowed on the eastern part of the site, it would also be allowed under the new Mixed Use designation. But if the property were rezoned to Regional Business, residential development would also be allowed as part of a mixed use building. This multiplicity of uses would not be allowed under the current zoning designation.

Mr. Stewart said there has been a lot of discussion about whether or not a sport or social club (YMCA) would be permitted under the current zoning. He clarified that a sports and recreation club is an allowed use in the R-48 zone with a conditional use permit. It would also be allowed in a Regional Business zone. Therefore, the YMCA issue is not dependent upon either a Comprehensive Plan designation change or a rezone. It could be built on the site now with a conditional use permit.

COMMISSIONER BROILI MOVED THAT THE PUBLIC HEARING BE CLOSED. COMMISSIONER HALL SECONDED THE MOTION.

Although the public portion of the hearing was closed, Commissioner Hall said he had several issues for which he would like the staff to provide further information. He said the land use policies are well addressed in the staff report. However, he referred to public comments related to parks and recreation. He said that while there are no parks on the subject property at this time, removing the Public Open Space designation could foreclose future opportunities for public park space.

Commissioner Hall requested that staff provide additional information to show how the proposed Comprehensive Plan amendment would either advance or hinder the following policies:

- **Parks and Recreation Goal 1** related to preserving open spaces and maintaining a quality parks and recreation system.
- **Parks and Recreation Goal 2** regarding the protection and enhancement of areas with critical or natural features where practical, especially if endangered by development.
- **Parks and Recreation Goal 4** related to a citywide trail system that provides linkages between parks, greenways, open spaces, regional trail systems, residential neighborhoods and community businesses. He said he is having a difficult time contemplating the difference between a strip of open space versus a consolidated area of open space.
- **Parks and Recreation Goal 24** related to opportunities for developing pedestrian and bicycle connections throughout the City to connect neighborhoods.

- **Land Use Goal 1** regarding the preservation of environmental quality by taking into account the lands suitability for development and directing intense development away from natural hazards and important natural resources.
- **Land Use Goal 30** related to the integration of open spaces into residential neighborhoods.
- **Land Use Goal 47** would include parks along the Aurora Corridor at Echo Lake and at North 160th Street.

Commissioner Hall pointed out that while the proposed amendment might hinder some policies, it could advance others. It is up to the Commission to balance the positive and negative impacts to make the best recommendation as possible to the City Council. Mr. Stewart said staff would provide additional information in writing regarding each of the goals identified by Commissioner Hall. He felt these issues could be very important to the Commission's findings of fact.

Commissioner Kuboi requested additional information from staff regarding the pros and cons of leaving the current Public Open Space designation as it currently exists. Mr. Stewart said staff could conduct some additional analysis regarding this option.

Commissioner Broili said Commissioner Hall touched on a number of issues that are important to him, as well. He is particularly concerned about linkage between the subject property, Aurora Avenue, and the Interurban Trail. He said he does not want the area to be closed off to the public. He would like the public access to the lake and trail to remain intact. He said he is in favor of moving ahead on the proposal tonight based on the testimony that has been received to date.

THE MOTION CARRIED UNANIMOUSLY.

8. DELIBERATIONS ON 2004-2005 COMPREHENSIVE PLAN AMENDMENT DOCKET

The Commission discussed how they wanted to proceed with their deliberations on the four site-specific Comprehensive Plan amendment proposals that have been heard by the Commission to date. Ms. Spencer referred to Page 43 of the Commission packet that was prepared for the April 21st meeting, which reminds the Commission where they left off after the public hearings for the other three actions. In addition, staff reattached all of the draft findings for the other three sites (Attachment 2, 4, 6). She advised that the advertised meeting agenda for April 14th includes deliberations on the annual Comprehensive Plan Update docket if time allows. Therefore, the Commission could work on any items on the docket now.

The majority of the Commission agreed to move forward with their deliberations on the other three site-specific Comprehensive Plan amendment proposals that were presented previously to the Commission. Deliberation on the Echo Lake site-specific Comprehensive Plan amendment was deferred to the next meeting, April 21, 2005.

COMMISSIONER KUBOI MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER 301275 AS PROPOSED BY STAFF FOR THE PROPERTY LOCATED AT 18511 LINDEN

AVENUE NORTH (ADJACENT TO THE JAMES ALAN SALON). COMMISSIONER MCCLELLAND SECONDED THE MOTION.

Mr. Stewart referred the Commission to Page 79 of the April 21st packet, which includes the draft findings and the determination of the Commission for File Number 301275. He noted that a map of the subject property could be found on Page 77. The request is to change the Comprehensive Plan land use designation from High Density Residential to Mixed Use. The Commissioners briefly reviewed the draft findings as presented by staff.

THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER KUBOI MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER 201277 AS PROPOSED BY STAFF FOR THE PROPERTY LOCATED AT 19671 – 15TH AVENUE NORTHEAST. COMMISSIONER BROILI SECONDED THE MOTION.

Mr. Stewart advised that a map of the subject property could be found on Page 61 of the April 21st packet, and the draft findings and determination start on Page 63. He reviewed that the request is to change the Comprehensive Plan land use designation from Ballinger Special Study Area to High-Density Residential. Ms. Spencer emphasized that the Commission would not be taking action to approve the concurrent rezones now. The Commission's actions are related to the Comprehensive Plan amendments, only. They would deliberate the rezone proposals on May 19th.

Commissioner Hall said this is a clear example of a Comprehensive Plan land use map amendment that is intended to correct existing spot zoning. The subject property is completely surrounded by greater densities, and the proposed amendment would be in the public interest.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Stewart referred to File Number 201371 and advised that a map of the subject property could be found on Page 47 of the April 21st packet, and the draft findings and determination start on Page 49. The request is to change the Comprehensive Plan land use designation from Low Density Residential to High Density Residential. Ms. Spencer noted that a member of the public submitted an additional letter during the public hearing on this proposal, and it was distributed to each of the Commissioners.

COMMISSIONER HALL MOVED THAT THE COMMISSION SEND A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER 201371 AS PROPOSED BY STAFF FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF NORTH 160TH STREET AND FREMONT PLACE NORTH. COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Hall said he would like to make some changes to the staff's recommendation for File Number 201371. He recalled that there was a lot of public negative testimony and concern raised about this proposal. While the large parcel across the street is developed as high density condominiums, the

remainder of the parcels in the vicinity are Low Density Residential. He said he has visited the site and noted the location of the significant trees that exist between the single family residences and the subject property. He tried to imagine what could occur if the property were developed as a large multi-family structure, which would be allowed by the action. He said he is undecided on the proposed amendment at this point.

Commissioner Broili said he would vote against the proposed amendment for at least three reasons. First, Fremont Avenue provides the natural separation between high density residential and low density residential. Everything west of Fremont Avenue and north of 160th Street is Low Density Residential. By designating the subject property as High Density Residential, the City would be setting the precedent for further movement westward. Second, he said the character of the area and the adjacent property dictate that the subject property remain Low Density Residential. Third, he said he is concerned that Boeing Creek is underground along Fremont Avenue, and he is opposed to any development that would make the potential future opportunity for day lighting the stream more difficult.

Vice Chair Piro questioned the location of Boeing Creek in this location. Mr. Broili said he walked the site and pulled up the manhole cover for Boeing Creek. It appears that the creek runs through the right-of-way or adjacent to it all along Fremont Avenue.

Commissioner Phisuthikul expressed his concern that the density being proposed for the subject property is too great. At the most, the site should only be allowed to have duplex units.

Commissioner McClelland agreed with Commissioners Hall, Broili and Phisuthikul. She disagreed with the applicant's point of view that nobody would want to live on the subject property because it is located on a busy corner. People will live about anywhere a residential structure is built. She said she is opposed to intensifying low-density residential neighborhoods.

Commissioner Kuboi said he leans towards supporting the proposal because it would allow an opportunity for the construction of more affordable housing. There is already a lot of high density residential development surrounding the subject property. It is important that the City offer affordable housing to its citizens, and high density residential development, such as that proposed, would fall in line with his desire to see a wider variety of housing stock that is affordable to the average citizen.

THE MOTION FAILED WITH COMMISSIONER KUBOI VOTING IN FAVOR AND VICE CHAIR PIRO, COMMISSIONER MCCLELLAND, COMMISSIONER PHISUTHIKUL, COMMISSIONER HALL, AND COMMISSIONER BROILI VOTING IN OPPOSITION.

COMMISSIONER BROILI MOVED THAT FILE NUMBER 201372 (ECHO LAKE COMPREHENSIVE PLAN AMENDMENT) BE TABLED UNTIL THE APRIL 21, 2005 MEETING. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

9. REPORTS OF COMMITTEES AND COMMISSIONERS

There were no Commissioner reports.

10. UNFINISHED BUSINESS

Mr. Stewart reported that, as per the Commission's request, staff has completed research about what other communities do for tree protection and view enhancement. A few technical memorandums regarding this research would be forwarded to each of the Commissioners.

Commissioner Broili asked why the joint Innis Arden/City Council meeting was cancelled. He also asked if this meeting would be rescheduled before the Commission completes their review of the Critical Area Ordinance. Mr. Stewart answered that he has not received any additional details about why the Innis Arden Club decided to cancel the meeting. He reminded the Commission that the contentious issue related to trees and views is one of the biggest hurdles the Commission will face when reviewing the Critical Areas Ordinance. Hopefully, they will be able to find some solutions.

Commissioner Broili recalled that the proposed Critical Areas Ordinance speaks to a stewardship plan. His interpretation is that this would be a suggestion, but there is no outline of what the plan should look like. Mr. Stewart clarified that there was an effort by a number of members of the Innis Arden community several years ago to create a vegetation management plan, which was actually signed by both the City Council and the Innis Arden Board as a way for the reserves to be managed. Unfortunately, there were provisions in the management plan related to some technical findings that prohibited it from ever being used or implemented. But he suggested that the concept of having a plan to maintain, manage and enhance the functions and values of the reserves would be the best way for the City to proceed in the future. He agreed that no outline for the stewardship plan process has been identified in the proposed Critical Area Ordinance. However, he pointed out that the procedural concept for the stewardship plan tool was taken from the County's ordinance in regarding to their agricultural use exemptions. The notion was that if they could build collaborative plans in agricultural areas, perhaps the same concept could be used in the contentious urban areas.

Commissioner McClelland inquired if it is necessary that the issue of trees versus views be addressed in the Critical Area Ordinance. Mr. Stewart explained that there are three types of tree protection classifications. One class is for trees that are outside of any critical area or critical area buffer. Another class would involve trees that are located within a steep slope of less than 40 percent. Cutting trees in these areas would require a permit. The third class involves trees that are located on steep slopes that are greater than 40 percent or within stream or wetland buffers. There are no provisions in the current code to permit the removal of trees in these areas other than a critical area reasonable use permit or if the tree is exempt (hazardous tree).

11. NEW BUSINESS

Commissioner Kuboi suggested that the Commission review the list of topics identified by the Commission at their retreat and look for opportunities to schedule them on upcoming Commission

meeting agendas. He particularly noted the Commission's desire to discuss Planning Commissioner expectations of each other. Mr. Stewart suggested that some of these items could be placed on the next meeting agenda. The Commission asked staff to invite the staff members who facilitated the retreat discussion to attend the next meeting, as well.

Commissioner Hall said one reason the retreat was so successful was the fact that each Commissioner did the necessary preparation work. He challenged the Commissioners to do the same for the next meeting, as well.

Commissioner Kuboi suggested that the City's new Economic Development Director be invited to attend a future Commission meeting. Mr. Stewart said staff would make the necessary arrangements. Commissioner Kuboi said it would be helpful if the Commissioners could forward comments to staff regarding the types of issues they want the Economic Development Director to address.

12. ANNOUNCEMENTS

Mr. Stewart announced that a workshop regarding code enforcement problems and issues was held last week. There will be a number of proposed amendments coming before the Commission for review in the future. Many of the comments had to do with neighborhood preservation, deteriorating structures, parking, the number of cars allowed on private lots, etc. There were about 60 people in attendance at the event.

Mr. Stewart announced that Alicia Sherman has joined the Planning and Development Services staff as the Aurora Project Manager. She formerly worked as a planner in Lake Forest Park and Maple Valley. He explained that while she is assigned to Planning and Development Services, her main job would be working with the Aurora Project Team to meet with business owners in the area in an effort to proactively solve some of their issues and concerns about access, consolidating properties, future parking and development regulations, etc. He said he would invite Ms. Sherman to a future Commission meeting, as well.

Commissioner Kuboi inquired if there were very many comments related to the fabric garage structures at the code enforcement meeting. Mr. Stewart answered that there were not. There were comments about using tarps to avoid necessary roofing repairs, but the Costco tents present a separate issue. If they are greater than 120 square feet in size, they would technically be considered a structure and a permit would be required. Ms. Lehmberg corrected that the revised building code would allow these tent structures up to 200 square feet without a permit. Mr. Stewart said this issue would be relatively low on the priority list. Commissioner Phisuthikul asked if any concerns were raised regarding cargo containers or trailers on private properties. Mr. Stewart answered that the City recently adopted a cargo container amendment. They are only allowed in central business, neighborhood, North City, regional or industrial zones with a conditional use permit. They are not allowed in any other zoning district.

13. AGENDA FOR NEXT MEETING

Vice Chair Piro reminded the Commission that their next meeting is scheduled for April 21st. The agenda would include further deliberation on the final Comprehensive Plan Update amendment proposal for Echo Lake. They would also discuss the issue of Planning Commissioner expectations of other Planning Commissioners. He noted that a joint meeting is scheduled with the Hearing Examiner on May 4th and May 5th. In addition, the Commissioners are invited to a volunteer breakfast on April 22nd.

14. ADJOURNMENT

The meeting was adjourned at 9:34 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission