

CITY OF SHORELINE

SUMMARY MINUTES OF SHORELINE PLANNING COMMISSION/HEARING EXAMINER JOINT MEETING

May 5, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

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

STAFF PRESENT

Tim Stewart, Director, Planning & Development Services
Ian Sievers, City Attorney
Flannery Collins, Assistant City Attorney
Andrea Spencer, Senior Planner, Planning & Development Services
Kim Lehmberg, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT

Commissioner Sands
Commissioner MacCully

1. CALL TO ORDER

Chair Harris called the meeting to order at 7:03 p.m.

2. ROLL CALL

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

3. CONTINUED TYPE C QUASI-JUDICIAL PUBLIC HEARING ON THE ECHO LAKE CONTRACT REZONE APPLICATION (FILE NUMBER 201372)

Chair Harris reviewed the rules and procedures for the continued public hearing. He explained that this is a joint hearing with the Planning Commission and the Hearing Examiner. The purpose of the hearing is to accept testimony on the Planning Commission's review of the rezone on property located at the south end of Echo Lake and the Hearing Examiner's review of the SEPA appeal by the Echo-Par Group.

He emphasized that during the first portion of the meeting the public may comment to the Planning Commission regarding the rezone application, but only if they did not provide comments at the May 4th hearing. Once the testimony regarding the rezone application is complete, the Hearing Examiner would conduct the remaining part of the hearing for the SEPA appeal. He noted that testimony regarding the SEPA appeal would be limited to the appellants.

Chair Harris reminded the Commissioners of the Appearance of Fairness Law, which requires Commissioners to disclose any communications they may have received about the subject of the hearing outside the hearing.

Chair Harris opened the public hearing and asked the Commissioners to disclose any ex-parte communications they may have received concerning the subject of the hearing. Commissioner Hall disclosed that three or four weeks ago, prior to the Commission's deliberation on the site-specific Comprehensive Plan amendment for the subject property, he had dinner at Spiro's. He ended up being seated by the owner, Evan Volts, and he asked him about the upcoming remodel of Fred Meyer and the Aurora Corridor Project and the impact it would have to his business. They also discussed the Gateway Project, and at that point Mr. Volts informed him that he was a partner with Harley O'Neil on the Echo Lake proposal. Commissioner Hall said at that point he indicated Echo Lake was the subject of a pending quasi-judicial hearing and he could not discuss the issue any further. No substantive discussion regarding the Echo Lake application took place. No members of the audience raised Appearance of Fairness concerns.

Public Testimony or Comment

Don Riegelhuth, 19271 Stone Avenue North, referred to Condition 7 of the agreement between the applicant and members of the Echo-Par Group (Exhibit 1 from the May 4, 2005 meeting). This condition would require the owners of the subject property to provide handicap accessible public access from the Interurban Trail to the project site. It further states that an existing asphalt road that currently connects the project site to the trail may be modified to satisfy the requirement. He questioned if this would be the road that goes in front of his house (Stone Avenue), or would it be the portion of road that exists now in the trailer court? Chair Harris said this requirement was presented at the previous night's public hearing as a proposal and is not a part of the conditions that have been proposed by the staff. The Commission has not discussed this proposed requirement. Mr. Riegelhuth said they would like the proposal to include access from the Interurban Trail to the property where the existing trailer park is located. If the access from the Interurban Trail were to intersect with their property, it would eliminate the parking space that is available in front of their home. He pointed out that he currently pays Seattle City Light annually for the use of this road. He said his neighbors are also concerned about this same thing.

Dave Conlow, 2326 North 155th Street, said he does not believe the applicant provided proper information regarding the proposal. He emphasized that Echo Lake is not a wetland because it has a stream running through it. In addition, the streams and storm drains that run through the subject property have not been properly mapped. The geotechnical report was inadequate because only ten-foot test holes were dug. Given the proximity of the lake and the applicant's proposal to provide

underground parking, it is important to do more detailed geotechnical studies. He questioned if there was any evaluation done to determine what trees could be saved or would they all be removed and replaced. He said he is part of the Echo-Par Group, but he does not concur with the agreement they reached with the applicant. He said he felt uncomfortable when he heard that Janet Way had a \$1,000 check from the landowner. He said he is not involved in the project appeal for the money. He just wants to protect the lake.

Peter Henry, 15224 – 5th Avenue Northeast, said he is also one of the appellants. He said he reluctantly supports Mr. Derdowski and Ms. Way in their efforts to reach an agreement with the applicant so that the appeal could be dropped. He feels the agreement is the best they can do. He said his chief concern at this time is to protect the water quality of Echo Lake and the environmental features that surround it. He said his understanding is that whether there is a contract rezone or not, the developer and the City would still be bound by SEPA, the Growth Management Act, the Critical Areas Ordinance and other City, State and Federal requirements.

Carol Murrin, Echo Cove Condominiums, 19414 Aurora Avenue North, voiced her concern about the number of condominiums that are being proposed for the subject property. She asked how many units are currently located on the trailer court property. Mr. Stewart answered that there are 110 units on this site now. Ms. Murrin said she would like to see fewer units placed on the subject property. Right now the applicant is proposing to develop 55 units per acre, and this would have a significant impact to the lake if people are allowed access. She asked that the Commission consider the impact to the lake if it is used for a recreational facility for those living in the new units.

Commission Questions of the Applicant and Public

Commissioner Hall asked Mr. Riegelhuth if he is opposed to the access road that is being proposed by the applicant or the entire proposal. Mr. Riegelhuth clarified that he does not have a problem with the proposal, but he does not want the handicap accessible public access from the Interurban Trail to go onto his road. He said it would work just as well to move this access another block down into the area where the trailer court is currently located.

Mr. Stewart said staff recommends the Commission close verbal testimony now, but leave the written comment period open until May 19th when the Commission reconvenes for consideration of the matter. Sometime over the next two or three days, staff could put together a revised and consolidated list of conditions as requested by the Commission. It is staff's intent to make the proposed list not only available to the Commission, but also to the community via the City's website. Anyone who has issues or comments on the proposed list could submit them in writing to the Commission before they begin their deliberations.

Commissioner Phisuthikul recalled that at the May 4th meeting, the Commission voted to leave the written testimony period open through May 10th. Mr. Stewart agreed, but he said staff is suggesting that the Commission add an additional nine days to the written comment period.

Commissioner Hall recalled that the reason the Commission agreed to cut the written comment period off on May 10th was to allow staff an opportunity to compile the comments and get them out to the Commission in their next meeting packet. If staff is comfortable with the idea of allowing written comments until the Commission's next meeting, he would support their recommendation to extend the written comment period to May 19th.

Commissioner Kuboi said he would support the staff's recommendation to extend the written comment period to May 19th. However, he would like time to be set aside on the May 19th agenda to allow the Commission to review the new written comments they receive. Mr. Stewart agreed. He said staff intends to include in the Commission's packet any comments they receive until the packet goes out. Then they would collect and assemble the additional comments they receive after the packets have been sent out and present them to the Commission at the May 19th hearing.

Commissioner McClelland suggested that perhaps it would be possible to cut off the written comment period a bit earlier so that Commissioners would have an opportunity to review the comments before they arrive at the May 19th meeting. Mr. Stewart pointed out that the staff would not release the revised list of conditions to the Commission and the public until the packets are sent out on May 12th, and the public should have an opportunity to offer written comments regarding the new list of conditions prior to the Commission deliberations. Time could be set aside on the May 19th agenda to allow the Commission to review new evidence and information. He felt this would be the fairest process.

Commissioner Broili said he would be in favor of ending the written comment period on May 12th. He said he does not want to wait until the last minute to digest all of the additional comments that come in after the Commissioners receives their packets for the May 19th meeting. Mr. Stewart reminded the Commission of their request that staff review the four alternative condition lists. If staff were to propose some new language that was not in any of the previous lists, it would be beneficial to the Commission to allow public response regarding the new language before they begin their deliberations. These comments would then be part of the record and available to the City Council when they deliberate on the Commission's recommendation.

Commissioner Kuboi asked if written comments would be posted on the City's website as they come in. Ms. Simulcik said she could do this. Commissioner Kuboi expressed his concern that if written comments are posted for the public to review, then the Commission could potentially get into a situation where they will have comments, rebuttal, comments, rebuttal, etc. It concerns him that new comments and materials could be submitted until the very end. Even if they have a substantial time period on the meeting agenda to review the new material, it still might not be sufficient. Mr. Stewart said that as soon as the comments are submitted they become part of the public record and are available to anyone. Typically, they do not post information on the website until the Commission has received it first.

Commissioner Hall pointed out that there are already four sets of conditions before the Commission for consideration and he appreciates staff taking the time to sort through them and figure out a set of conditions they believe would balance the interests. But ultimately, the conditions are something the Commission will either recommend to the City Council or not. If people have the opportunity to comment on all of the conditions that have been proposed to date, wordsmithing changes should not

damage the public process. He agreed with Commissioners Broili and Kuboi that receiving information at the very last minute has been very problematic for the Commissioners in the past. The applicant has a land use action pending, and he has a right to a decision. If the Commission receives new information on May 19th, this would threaten their ability to render a decision that evening. He suggested that the written comment period be cut off sooner. The public could be asked to look at the full range of conditions that have been placed before the Commission and provide their comments between now and May 10th.

Mr. Stewart advised that Ms. Spencer has suggested that if the Commission were to establish a cut off date for written comments of May 18th at noon, staff could compile, assemble and hand deliver the comments to each Commissioner on the afternoon of May 18th.

Commissioner McClelland pointed out that there have already been two instances in the last several meeting where materials have been presented to the Commission at the very end, and people who have financial and vested interest in what's going on do not have an opportunity to review and comment on the new materials. This creates an uncomfortable situation. If the Commission could receive the written comments by May 18th, the public must also be allowed to pick up a copy of the comments on May 18th. Mr. Stewart agreed. Rather than posting public comments on the website as they are received, Commissioner McClelland suggested that staff wait until May 18th to post all of the public comments at the same time.

COMMISSIONER MCCLELLAND MOVED THAT THE WRITTEN COMMENT PERIOD BE EXTENDED TO NOON ON MAY 18, 2005. VICE CHAIR PIRO SECONDED THE MOTION.

Commissioner Hall encouraged members of the public to submit their written comments as soon as possible so the Commission would have ample time to consider them.

THE MOTION CARRIED UNANIMOUSLY.

4. PUBLIC HEARING ON SEPA APPEAL FOR FILE NUMBER 201372 REGARDING THE ECHO LAKE REZONE

The Planning Commission portion of the joint hearing with the Hearing Examiner ended at 7:30 p.m. and the Echo Lake SEPA MDNS Appeal Hearing went from 7:30 p.m. to 8:50 p.m. Please see Hearing Examiner Decision dated May 16, 2005 for SEPA Hearing details.

The Public Hearing for File No. 201372 was closed at 8:50 p.m. The Planning Commission took a recess and then reconvened at 9:05 p.m.

COMMISSIONER HALL MOVED TO RECONSIDER THE PLANNING COMMISSION'S RECOMMENDATION TO CHANGE THE COMPREHENSIVE PLAN LAND USE DESIGNATION OF THE SOUTHERN PORTION OF THE SUBJECT PARCEL FROM HIGH DENSITY RESIDENTIAL TO MIXED USE. COMMISSIONER MCCLELLAND SECONDED THE MOTION FOR DISCUSSION PURPOSES.

Commissioner Hall explained that when the Commission acted on the Comprehensive Plan site-specific land use designation change proposal, he didn't clearly separate in his mind what that would mean from what the rezone might mean. He said he has given further thought about the housing policies, the density, and all of the site plans they were shown throughout the process. While they were told that the Comprehensive Plan is separate from the rezone application and SEPA appeal, the Commission always had the notion that there would be up to 180,000 square feet of commercial space and up to 350 housing units. Upon further reflection, he said it occurred to him that absent a contract rezone, which is by no means a requirement or a condition on the Comprehensive Plan land use change, the change in the land use designation from High Density Residential to Mixed Use would require that any future decisions such as rezones, etc. would have to be reviewed by the Commission or the City Council to make sure they are consistent with the Comprehensive Plan. If the Comprehensive Plan land use designation were Mixed Use, there would be no guarantee that the property owner would develop any residential units on the subject property at all. There would be 101 low to moderate-income residential units displaced by the proposal, and the Growth Management Act goals require the City to provide housing opportunities to meet their established growth targets. He said the prospect of losing 6.71 acres of High Density Residential land and allowing it to possibly be developed as 100 percent commercial or industrial in the future could make it very difficult for the City to achieve the population densities and growth they are trying to accomplish through their Comprehensive Plan. He reminded the Commission how difficult it is to up zone property from Low Density Residential to High Density Residential.

Chair Harris reminded the Commission that another goal of the Growth Management Act is to create jobs for the community. Commissioner Hall agreed. Commissioner Kuboi explained that the use of the property would be governed by the zoning regulations. If the contract rezone were not approved, the existing High Density Residential zoning designation would remain intact irrespective of whether the land use designation was Mixed Use or not. Commissioner Kuboi said his understanding is that the City would still have a zoning designation that would be protective of housing as the use for the eastern portion of the site should the contract rezone not go through. Mr. Stewart agreed. Commissioner Kuboi said he does not share Commissioner Hall's concern with regards to the land use designation change from High Density Residential to Mixed Use.

Vice Chair Piro said that after the last hearing on May 4th, he considered options for some type of agreement on the percentage of low-income units that should be considered for the site. Mr. Stewart cautioned the Commission not to deliberate the contract rezone at this time. The scope of the debate should be narrowly focused on the Comprehensive Plan amendment and the proposal to change the High Density land use designation to Mixed Use.

Vice Chair Piro asked if there are provisions in the Growth Management Act or under State law that would require that like housing be constructed if low-income housing is removed. Mr. Stewart said staff would research this information.

Commissioner Phisuthikul said that he, too, was concerned at the beginning of the Commission's deliberations to change the Comprehensive Plan designation for the subject property from High Density to Mixed Use because it would be a very broad land use designation. He said he found it difficult to support the land use change because a Mixed Use land use designation could potentially allow uses such

as industrial to occur on the site. However, because any zoning change would require Planning Commission review and City Council approval, it is unlikely that the zoning on the subject property would ever be changed to allow industrial development. Because of the City's process that allows for checks and balances, he felt comfortable supporting the Comprehensive Plan land use change as proposed.

Commissioner McClelland clarified that if the Comprehensive Plan amendment is approved as proposed but the contract rezone and the proposed development does not occur, the existing zoning on the property and the new Comprehensive Plan land use designation would be inconsistent. Mr. Stewart answered that the current R-48 zoning designation would be consistent with the Mixed Use land use designation. Commissioner McClelland pointed out that once the Comprehensive Plan land use designation is changed to Mixed Use, there would be no guarantee that a different kind of rezone would not be requested in the future. Mr. Stewart referred to the list of zones that are compatible with the Mixed Use designation, which was handed out at the time the Commission was considering the land use proposal. This list of uses included R-48 as well as regional business, and these are the two zones that are currently on the site now. If the Mixed Use Comprehensive Plan amendment were adopted, the current zoning would be consistent with the Comprehensive Plan. If the land use designation were changed to Mixed Use, a rezone application could be submitted for any number of zoning districts. However, the Planning Commission's responsibility would be to review the proposal in light of the policies in the Comprehensive Plan and the criteria that has been established for adopting a zoning change. Following a public hearing, the Commission would be asked to deliberate and make a recommendation as to whether a proposed zoning change would be appropriate.

Commissioner McClelland recalled that when the Commission voted to recommend approval of the Comprehensive Plan amendment, she was reluctant to offer her support. She said that what they started out with was a complete application (a Comprehensive Plan amendment, a contract rezone, and a project). The proposed project originally included the possibility of the City owning some of the property. This property would be within the public's domain, and the City would have the ability to govern what goes on in the lake or the wetland. She said she favored moving the whole proposal through as a package. Once the SEPA determination was appealed and the process was chopped up into parts, they ended up with a situation where they don't know who will own the property in the end. She said she is so uneasy about the whole situation that she might be tempted to vote for the motion on the table if there were a way to reconstruct the package.

Chair Harris noted that the City doesn't own the land, and there are no plans for the City to purchase the land.

Vice Chair Piro suggested that, rather than reconsidering the Comprehensive Plan land use change, perhaps the housing issues that have been raised by Commissioner Hall could be addressed as the Commission goes through the process of revising the contract rezone conditions.

COMMISSIONER HALL WITHDREW HIS MOTION TO RECONSIDER THE COMMISSION'S RECOMMENDATION ON THE COMPREHENSIVE PLAN LAND USE AMENDMENT, WITH THE UNDERSTANDING THAT THE ISSUES IN THE

COMPREHENSIVE PLAN COULD BE ADEQUATELY CONSIDERED AT THE TIME OF REZONE. THE FACT THAT THE LAND WOULD BE REDESIGNATED AS MIXED USE WOULD NOT MEAN THE COMMISSION COULD NOT THINK ABOUT ALL OF THE POLICIES IN THE COMPREHENSIVE PLAN WHEN A REZONE APPLICATION IS SUBMITTED.

Commissioner Broili stated that he believes the Commission made a decision that, assuming the proposed plan goes forward, would give the City a good final product that they can be proud of. It would meet the residential requirements they are looking for in a mixed-use area. He said he would be very reluctant to change direction midstream because it would only “muddy the water” and the perspective developers could just walk away from the project altogether. He said this type of situation would be a major concern to him.

COMMISSIONER MCCLELLAND WITHDREW HER SECOND OF THE MOTION.

Commissioner Kuboi suggested that it is probably a reasonable statement to say that people of very low incomes occupy the trailer park. He asked if this would be tantamount to saying that it is low-income housing. By losing those units, he asked if the City would be deficit in with respect to low-income housing. Mr. Stewart said there are some policy implications regarding affordable housing and SEPA implications, and there are very clear definitions in the development code for moderate income, low income, very low-income and extremely low-income housing based upon the percentage of median household income that is spent for rent. However, the City staff does not have access to information that would allow them to specifically identify the income level of any housing unit in Shoreline unless it were attached to some public, federal, state or other subsidy program.

Commissioner Broili clarified that the City staff doesn't really know what the mean income of the people living in housing developments within Shoreline is. He said his personal experience in visiting the property is that the people who live in the trailer park had a nice situation and were able to live close to the lake. While they lived in trailers, there were a lot of expensive cars and boats, as well. He questioned if the residents of the trailer park could really be considered low-income. He said he is not convinced that the proposed project would really displace low-income residents.

Mr. Stewart advised that staff would attempt to provide a response to the Commission regarding the current laws for low-income housing.

5. ADJOURNMENT

COMMISSIONER HALL MOVED THAT THE COMMISSION MEETING BE ADJOURNED. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

The meeting was adjourned at 9:25 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik
Clerk, Planning Commission