These Minutes Approved
January 15th, 2009

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING

December 4, 2008 — Shoreline Conference Center
7:06 P.M. — Mt. Rainier Room

Commissioners Present
Chair Kuboi
Commissioner Behrens
Commissioner Kaje
Commissioner Perkowski
Commissioner Piro
Commissioner Pyle
Commissioner Wagner

Staff Present
Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Associate Planner, Planning & Development Services
Flannary Collins, Assistant City Attorney
Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent
Vice Chair Hall
Commissioner Broili

CALL TO ORDER

Chair Kuboi called the regular meeting of the Shoreline Planning Commission to order at 7:06 p.m.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuboi and Commissioners Behrens, Kaje, Perkowski, Piro, Pyle and Wagner. Vice Chair Hall and Commissioner Broili were excused.

APPROVAL OF AGENDA

The agenda was accepted as proposed.

DIRECTOR'S COMMENTS

Mr. Cohn announced that a Regional Jail Planning Process Neighborhood Meeting has been scheduled for Monday, December 15th, in the Shoreline Room from 6:30 to 8:30 p.m. The meeting will focus on the site in Shoreline at 2545 Northeast 200th Street. Staff will be present to answer questions and explain how the environmental review process would work.

Mr. Cohn reviewed that Part 2 of the Town Hall Meeting for the Visioning Process has been scheduled for January 8th, and the Commissioners are encouraged to attend. At the regular meeting of January 15th the Commission will review the public input received at the public meetings. They will also review the first draft of "Community Concepts," which is a list of ideas submitted by the community about what the Vision statement should look like. On January 29th the City Council and Commission would meet together in a workshop to review and discuss the Vision and provide direction on the framework goals. Staff anticipates they would meet with the Commission or a subcommittee of the Commission in February to further discuss the framework goals and convert them into actual Vision statements in preparation for the community meeting in March. The Commission and City Council would have another workshop discussion on March 2nd, and the City Council will conduct a public hearing on April 13.

Mr. Cohn announced that at the Commission's December 18th meeting Mr. Tovar would provide a detailed discussion about the staff and Commission's 2009 Work Program.

Commissioner Wagner inquired if the City has received any "Community Concepts" from the public yet. Mr. Cohn said he is not aware of any, but they are not due until December 20th. Commissioner Wagner asked what the Commission's role in Part 2 of the Town Hall Meeting would be. Mr. Cohn said he does not anticipate a Commission role in the meeting, but it would be appropriate for them to attend the meeting in preparation for their workshop discussion on January 15th. Commissioner Wagner expressed her belief that the City Council appreciated the Commission's amalgamation of the public comments at Part 1 of the Town Hall Meeting, and she suggested the Commission consider doing the same for Part 2.

Commissioner Wagner noted that a legislative public hearing before the City Council has been tentatively scheduled for April 13, 2009. She asked if the Commission would hold a public hearing, as well, and provide a formal recommendation to the City Council. Mr. Cohn answered that he does not anticipate the City Council would request a formal recommendation from the Planning Commission. Instead, the City Council and Commission would work together on January 29th and March 2nd to develop recommendations. If the Commission wants to submit a formal recommendation, they could do so by testifying at the hearing or writing a letter to the City Council on behalf of the Commission. He suggested they wait to make this decision until after the March 2nd joint meeting with the City Council.

APPROVAL OF MINUTES

The minutes of November 20, 2008 were approved as amended.

GENERAL PUBLIC COMMENT

Art Maronek, Shoreline, provided a copy of an email he submitted to the Commission, as well as his resume. It was identified in the record as Exhibit 1. Mr. Maronek asked the Commissioners to take a few minutes to review his resume, which makes it clear that he is not just an angry citizen, but a professional with concerns about the proposed Development Code amendments that are scheduled for discussion later on the agenda.

Commissioner Behrens asked Mr. Maronek to share his previous role in Shoreline's Government. Mr. Maronek answered that he worked for the City as their interim Public Works Director.

STAFF REPORT ON DEVELOPMENT CODE AMENDMENTS

Mr. Cohn referred the Commission to the eight proposed Development Code amendments. He emphasized that this is a study session and the first time the Commission has seen them. He recalled that the purpose of the study session is for the Commission to ask questions and identify concerns.

Sections 20.30.370 and 20.30.380

Mr. Szafran explained that the City Attorney has recommended that the words "condominiums" and "interests" be deleted from these two sections. The City Attorney has determined that condominiums and interests are not divisions of land and should not be subject to subdivision regulations.

Ms. Collins referred the Commission to a memorandum prepared by the City Attorney. It explains that the City's subdivision statute makes no mention of condominiums or interests, and that was the primary reason for his recommended amendment to Section 20.30.370. The City Attorney also proposed amendments to Section 20.30.380 to be consistent with the change that was made in 2006, which removed condominiums from the binding site plan requirement. Ms. Collins noted that binding site plans are only required for commercial and industrial types of development. She explained that the subdivision statutes focus on the division of land and not form of ownership, which is what a condominium is. When condominiums are created, the land is not divided. Instead, a developer is required to file a declaration that is similar to a plat. While the declaration does not have to be approved by the government, the survey and maps must be attached.

Commissioner Piro asked if the current language was inherited from previous code language before the City incorporated, or if it was composed after incorporation. Ms. Collins answered that the current language was adopted in 2000, but she is not sure where terms such as "interests" and "condominiums" came from. Again, she noted that these terms are not included in the subdivision statute.

Commissioner Pyle asked that in the future staff provide hard copies of memorandums or other documents that are sent to the Commissioners via email.

Commissioner Pyle asked Ms. Collins to further explain the changes that were made in 2006. Ms. Collins explained that the binding site plan section of the code (20.30.480) used to include condominiums, but that was removed in 2006 because condominiums are not required to go through the binding site plan process since they are not considered a division of land. Commissioner Pyle asked if case law was cited related to the 2006 amendment. Ms. Collins answered that no case law was cited in the memorandum. Commissioner Pyle expressed his belief that the proposed amendments would drastically change the process. Whether they are considered formal or informal divisions of land, condominium developments allow more people to take partial ownership and interest in the land and more structures can be built. Ms. Collins said the legal position is that condominiums do not fall within

a division of land, so they should not be required to go through the binding site plan process. The parcel would still be only one lot, but there would be multiple owners.

Ms. Collins suggested that Mr. Cohn and Mr. Szafran outline what the required process would be for developing a condominium based on the proposed changes. Commissioner Pyle suggested staff survey other jurisdictions that are similar to Shoreline to find out whether or not they allow for the development of one single-family residential parcel with more than one single-family unit. Ms. Collins pointed out that the City of Shoreline is unique in that most jurisdictions only allow one primary use per single-family parcel without going through a process. Commissioner Pyle noted that the City's current process is not unique, because it requires a condominium developer to go through the subdivision process. The proposed amendment would make the City unique. Mr. Szafran said staff could not find any examples of the City processing multi-family developments on one lot using the binding site plan process, and it has not been the City's policy to do so.

Commissioner Behrens pointed out that the City of Bothell requires a short-plat process for condominium developments in residential zones. They only allow condominium development in multi-family zones using a site plan requirement. Mr. Szafran noted that the City of Shoreline uses a site development permit process for condominium developments in multi-family zones. If the proposed amendments are adopted, Commissioner Behrens asked what process would be used to regulate condominium development. Mr. Szafran answered that Section 20.30.315.B states that the construction of two or more detached single-family dwelling units on a single-parcel would be subject to the site development process.

Mr. Cohn referred the Commission to a memorandum from Paul Cohen, which points out that the key regulatory difference between subdivided and un-subdivided single-family development is that un-subdivided development does not have internal setbacks between units except those required by the building and fire codes. Other than that, all other development standards would remain the same, including stormwater, critical areas, parking and tree preservation.

Commissioner Kaje suggested there must be a record to explain why the terms "interests" and "condominiums" were added to the language in the first place. He encouraged staff to locate this history so the Commission can have a better understanding of the impacts associated with the proposed amendments. Commissioner Piro said the purpose of his earlier citation of Section 20.30.315.B was to establish a fuller context for the proposed amendment to ensure the new language would be consistent. He agreed it would be appropriate to study the history of why the current language was adopted. He also agreed it would be helpful to have examples of how other jurisdictions in the region deal with condominiums.

Commissioner Behrens noted that several other cities have an extensive process for site development permits associated with condominium developments. He expressed his belief that because condominiums are not typical types of development for single-family zones, more information and background should be required to address the impacts. He asked staff to explain what the required review process would be if the proposed amendments were adopted. Mr. Cohn answered that the review

process would include a review of the stormwater requirements, parking requirements, and all other requirements that apply to development in single-family zones.

Commissioner Pyle pointed out that Section 20.30.315.C states that the development permit must comply with all applicable development regulations and requirements for construction. He summarized that, as proposed, the subdivision process would no longer be required, and neither a short plat nor a binding site plan would be required for the development of two or more single-family units on one single-family lot. The project could be converted to a condominium at a later date or occupied by the same owner because the City does not regulate the condominium component. He explained that a project of this type would require a site development permit, which would be reviewed by the Public Works Department and the Development Review Engineer to check for compliance with low-impact development requirements, drainage requirements, etc. Frontage improvements would be required as part of the project. The project would also be reviewed by a City Planner to make sure it is consistent with the parking and perimeter setback requirements and lot coverage and hardscape requirements. He noted that all of these requirements are the same as those for a formal short plat or subdivision. Mr. Szafran agreed there is no difference between the short plat and site development permit requirements. Commissioner Pyle noted the only benefit is the associated process that comes with the permit.

Commissioner Pyle explained that short plats are approved administratively. Staff would review a short-plat permit application to make sure it conforms to all of the dimensional standards, lot coverage, etc. and potentially place conditions on the preliminary short plat. The developer would then prepare a site development permit application to identify the infrastructure (sewer lines, frontage improvements, etc.) and come back with a final short plat application that would allow them to record and create the real property. Mr. Szafran added that final drainage would also have to be worked out prior to approval of a final short plat. Commissioner Pyle noted that, currently, the formal long-plat process is used for development of five or more units on a property. This process would require a SEPA review and a neighborhood meeting. Mr. Szafran clarified that the short plat process would require a neighborhood meeting, as well. However, SEPA would not be required for four or fewer units unless a certain threshold is exceeded. Commissioner Pyle pointed out that with a formal long-plat process, the burden of proof would lie with the developer to indicate they are conforming to all of the development requirements identified in the code. The staff would be required to prepare a report and present it to the Planning Commission, who would hold a public hearing and forward a recommendation to the City Council. The City Council would make the final decision.

Commissioner Pyle summarized that, as proposed, a developer could develop the number of units allowed by the current zoning without going through the subdivision process described above. There would be no discretionary approval, and the decision would be administrative as to whether the application conforms to the standards or not. The City Council and Planning Commission would not be involved in the review process.

Commissioner Wagner asked staff to review the current public process for short plat applications. Mr. Szafran answered that a neighborhood meeting would be required, but the decision would be made administratively without a public hearing before the Planning Commission and City Council. No neighborhood meeting would be required for a condominium project, either. Commissioner Wagner

recalled a previous concern that the proposed amendments could create a loophole for developers to avoid frontage improvements if they don't have to go through the short-plat process.

Commissioner Piro thanked Commissioner Pyle for articulating the distinctions between the various processes. He suggested that when the proposed amendments come back before the Commission it would be important to reassess the scenarios he described. He noted that rather than just being technical amendments as initially presented, eliminating the terms would also result in a different review procedure. He expressed concern that life safety issues that are normally considered through the formal plat or short plat processes may be overlooked if staff only applies the development standards.

Commissioner Pyle raised the question of how taxes would be assessed on condominium properties. Mr. Cohn explained that while a condominium owner owns a portion of the building, the property is owned in common. Taxes are based upon a percentage of the total property that each person owns.

Section 20.30.410

Mr. Szafran referred to a replacement page (page 18 of the packet) that was provided for Section 20.30.410. He explained that the proposed amendment would eliminate Item 4, which makes reference to minimizing off-site impacts of drainage and views. He explained that Sections 20.30.410.D and 20.60.070 already require that all preliminary subdivisions demonstrate adequate levels of service and that review of conceptual stormwater drainage systems be performed in conjunction with the preliminary plat review. Therefore, Section 20.30.410A.4 is redundant. In addition to the redundancy regarding drainage review, Mr. Szafran pointed out that the City of Shoreline does not have any regulations, ordinances or supporting language in the Development Code regarding views. Therefore, the current language is misleading to the general public that comments regarding views can and will be evaluated. Mr. Cohn added that it would be impossible to make determinations regarding a view during the subdivision process since an applicant would not be required at that point to present a development plan.

Commissioner Pyle said he agrees with the proposed amendment to remove Item 4. He pointed out that the actual development of a subdivided property would be regulated by the City's standard zoning controls. Issues such as views should not be addressed during the subdivision process. Commissioner Piro concurred and suggested it may be of value to site some of the Commission's previous conversations where they had to deal with view considerations. He noted there is currently no definition for view, and he welcomes the opportunity to remove this confusing reference.

Section 20.50.150

Mr. Szafran explained that Section 20.50.150 lists the regulations for storage space of garbage and recyclable materials. Because the section heading is misleading, staff recommends it be changed to make finding specific regulations easier. He said staff is currently having conversations with Cleanscapes to make sure the ratio of 1½ square feet per residential dwelling unit is sufficient space for garbage and recycling areas (Section 20.50.150.A.1). Staff would have a recommendation from

Cleanscapes when the amendments are presented again for a public hearing. The proposed amendment would change Item 6 to include "garbage."

Commissioner Wagner suggested that if the language is changed to be specific about garbage, perhaps they should also include composting, since that is one of the services that Cleanscapes offers to residents of Shoreline. She summarized that composting, garbage and recycling materials are now placed in three separate bins so additional space may be necessary.

Table 20.50.390.E

Mr. Szafran explained that this table is a new addition to the parking section of the Development Code and would add new electrical vehicle parking standards. Staff's initial proposal is to require the necessary infrastructure to accommodate one electrical parking space for residential buildings with 100 units or more and all new commercial and/or mixed-use buildings. He noted that the market for electric vehicles has not reached this part of the country yet, but it would be prudent and less expensive to install infrastructure during construction of new buildings.

Commissioner Piro suggested that this section should spell out the term "electric vehicle" to make the language more readable. He also suggested the section should cite where the ADA standards can be found.

Commissioner Kaje asked how staff came up with the "1 per 100 unit" number. He also questioned how many developments of 100 units or more the City anticipates in the future. He said that while he supports the concept, he would like more information about whether or not the proposed table is in line with Councilmember Eggen's suggestion. He said it would also be helpful to have more information about what the correct requirement should be and what impact the requirement would have on developers. Mr. Szafran said staff and Councilmember Eggen did not specifically discuss the proposed number, but the draft table was forwarded to him and he did not identify any concerns. Mr. Szafran said it has been difficult for staff to find examples from other jurisdictions, and most of the examples from the western half of the United States came from Central and Southern California where there are many facilities.

Commissioner Kaje expressed concern that the proposed table does not clearly outline what a developer would be required to provide. It would be helpful for this section to refer to specific standards that have been used elsewhere. Mr. Szafran said staff does have examples of standards that could be applied.

Commissioner Behrens said he recently listened to a radio talk show where electric car facilities were the topic of discussion. Concern was expressed that property owners should avoid running extension cords from buildings to parking lots and sidewalks. He said it appears the intent of the proposed table is to reserve one parking space in a parking lot for an electric vehicle. He suggested a better approach would be to concentrate on the concept of designing infrastructure in such a way that people in parking lots would be able to get access to recharge their vehicles no matter which stall they park in. Mr. Szafran pointed out that a certain kind of plug is required to accommodate electric cars.

Section 20.50.440

Mr. Szafran said staff was asked to look at other jurisdictions for bicycle standards and determine if Shoreline's regulations are sufficient. Through their research, staff has concluded that Shoreline's standards are more stringent than all adjacent cities and more stringent than the Cities of Seattle and Portland. Therefore, they are not proposing any changes to the number of required bicycle facilities. However, Item B would become a requirement rather than an exception, which means one indoor bicycle storage space must be provided for every two dwelling units in townhouse and apartment residential uses unless individual garages are provided for every unit.

Section 20.60.050

Mr. Szafran said the purpose of this amendment is to make sure the fire protection standard is consistent with the provisions of Chapter 15.05 of the Shoreline Municipal Code.

Section 20.90.080

Mr. Szafran explained that this code amendment would change the parking ratios in the North City Business District. He advised that it has been determined that the ratio of one parking stall per residential unit is too low and is causing parking problems the City did not anticipate when the North City Business District was adopted. The proposed parking regulation would mirror the regulation that was adopted for Planned Area 2 (Ridgecrest Commercial District.) Mr. Cohn explained that when the north City requirement of one stall per unit was originally adopted, the assumption was that there would be shared parking. However, because no office developments have been constructed, there are few opportunities for shared parking.

Commissioner Behrens noted that parking is a very controversial issue for the people who live in the North City Business District. He asked if staff is convinced the proposed amendment would be adequate to provide the amount of parking that is necessary to handle the additional units that could be built. Mr. Cohn said staff has studied the parking problems on 15th Avenue and concluded that it is likely that some of the people who park on the street actually live on the street. In addition, the apartment complex tenants park on the street because the property owner charges them for a parking space. Increasing the required number of parking spaces per unit would not prohibit a property owner from charging tenants for the available parking spaces. Because Shoreline provides good transit on 15th Avenue, staff believes it would be reasonable to have a parking standard that is less than the citywide parking standard. He said that from staff's perspective, it does not make sense to have a flat one car per unit requirement. It would be better to tie the requirement to the number of bedrooms.

Commissioner Behrens inquired if would be possible to have language in the code that would only allow a developer to reduce the parking requirement if the cost of the parking space was included as part of the rent. As long as tenants are required to pay for a parking space, many will continue to avoid paying whenever possible. Mr. Cohn answered that it would be very difficult to enforce a regulation of this

type. Commissioner Kaje suggested that developments of a certain size should not be allowed to charge for parking. Again, Mr. Cohn said he does not believe a requirement of this type would be enforceable. He noted that developers have made the argument that some tenants don't want to have a car, and they don't want to subsidize the people who do own cars.

Chair Kuboi questioned how staff reached the conclusion that changes were necessary to the parking requirements in the North City Business District. He noted that the City does not really have a defined methodology for identifying parking problems. He suggested this issue be looked at more broadly at some point in the future.

PUBLIC COMMENT

Jill Simonson, Shoreline, referred to the proposed amendments to Section 20.30.370. She expressed concern that the amendments appear to have greater ramifications than just a few wording changes. While she is not a legal expert, she tried to evaluate how the proposed amendment would impact her neighborhood. As proposed, a developer who wants to build six detached single-family homes would be required to go through a subdivision process while a person who wants to construct a condominium project might be allowed to construct seven attached units on the same size of property. This would result in more homes, less open space, fewer trees, more demand on the infrastructure, and more traffic. However, the developer would not be required to go through the more rigorous subdivision process. She urged the Commission to carefully analyze the public concerns, which are significant and could be far reaching for Shoreline. If the proposed amendments are adopted, it would be advantageous for developers to utilize the condominium concept.

Commissioner Pyle clarified that density is derived based on a ratio of units to square footage. If the lot size is the same, then the same number of units would be allowed. Ms. Simonson pointed out that a condominium development would have less space between the homes, so more homes could be constructed on a site. Again, Commissioner Pyle emphasized that this would not be a function of density. Commissioner Wagner suggested that staff consider different scenarios where it might be possible to develop more units on the same size of property using the condominium concept.

Commissioner Behrens reminded the Commission that throughout the visioning process, members of the public have expressed concern about "neighborhood character." He asked Ms. Simonson to share her perspective on how a condominium development would alter the character of her neighborhood. Ms. Simonson said she does not necessarily believe a condominium development would have to alter the neighborhood character. There are ways to work with developers to maintain the character of a neighborhood, but the process must be two-way and not all developers are interested in participating. Allowing developers an opportunity to add density randomly and without a thoughtful process would be disappointing to her.

Art Maronek, Shoreline, referred to the proposed amendment to Section 20.30.370.A and noted that two opinions have been issued regarding the term "interests:" one by the City Attorney and one by the attorney that was hired by the Highland Terrace Neighborhood. He expressed concern that removing the term "interest" from the Development Code would lessen the requirements for a formal subdivision.

He noted that State Law requires either a formal subdivision or a binding site plan for developments of more than four units (RCW 58.17.035). He summarized that the City cannot choose another process that is different than State Law, yet that is what the proposed amendment attempts to do. It would weaken the argument that developments of more than four units must go through the subdivision process.

Mr. Maronek said the same argument would apply to the proposed amendment to Section 20.30.380.D, which would remove the binding site plan requirement for condominium developments. He encouraged the Commission to read the memorandum from the City Attorney dated March 31, 2008, which addresses this issue in part. He also encouraged them to read the memorandum from the neighborhood's attorney because it completes the City Attorney's analysis and points out that subdivision is required for every condominium development over four homes, unless an alternative binding site plan is used. There are no other options available under State Law.

Mr. Maronek explained that when the Highland Terrace Neighbors first met with the developer of a proposed new single-family, detached condominium project on Greenwood Avenue North in 2007, they asked a number of questions such as why they are using condominium as opposed to single-family. The developer answered that they wanted to avoid the formal subdivision process, which takes too much time. When the neighbors asked when they could see the CCR's, they were told the CCR's would be done by the individual owners after the units were sold. They asked about tree retention, and the developer responded that the City would only require them to save 12 of the 63 significant trees. Since trees work best in groups to defend and support one another during the winter months, the trees remaining on the edges could fall onto the houses to the north. They would have no protection from the strong winds in the winter. The neighborhood group has offered to pay for an arborist to go on site and study the tree situation and identify what is and is not safe, but the developer has declined.

Mr. Maronek expressed concern that if the proposed amendment to 20.30.410.A.4 is approved, the City would not have to consider off-site impacts as part of their review of a proposal. No developer would have to consider the potential impact of trees falling on adjacent homes. If off-site impacts are not considered, any tree that falls could result in a lawsuit because the City would have authorized a developer to not address the danger. He pointed out that if this particular amendment were adopted, a property owner in the Richmond Beach Neighborhood could loose his/her entire view, because the City would no longer have to worry about view impact on other properties.

Mr. Maronek summarized that the proposed amendments also put the developer at risk because trees could fall into the opening he creates for the new homes. No one has addressed this concern. It appears that the proposed amendments are political changes that empower a pushy developer to get what he wants and get him out of the face of the City Council and City staff.

Commissioner Behrens asked how many trees would be removed if the property discussed by Mr. Maronek were short platted in the traditional fashion. Mr. Maronek said that in two meetings with the City Council, Mr. Tovar indicated the design could be changed by moving the houses around on the lot to retain the trees and maintain public safety. However, the developer has not indicated support for this type of change. The neighbors are concerned that significant trees could fall onto homes if all but a few

of them are removed. He emphasized that if the term "interests" is removed from Section 20.30.370, the public hearings before the Planning Commission and the City Council would be removed from the process, and the decision would be made by staff. He expressed his belief that staff is not good at opposing arrogant, strong developers or City Councilmembers that may support them.

Commissioner Piro said he appreciates the efforts of the Highland Terrace Neighborhood to work with City staff and the developer to address their concerns. While the Commission does not have the ability to deal with this particular project, he said he can see how the proposed amendments are related to the neighborhood's concerns. He asked how the proposed changes would impact the development referred to by Mr. Maronek. Ms. Collins said that would depend on where the project is in the process. If the developer has already submitted a building permit application, the project would be vested under the current code language. Mr. Maronek said the developer has indicated that, given the current market, he doesn't intend to move forward with the project until approximately November 2009. This would afford time for a certified arborist to visit the site and determine which trees have to be saved and which ones can be removed while maintaining public safety around and within the development. Mr. Cohn agreed to check where the application is in the process and inform the people who left contact information at the study session.

Commissioner Kaje referred to Section 20.50.350, which has to do with tree retention and noted that the current standards require that a developer save 20% of the significant trees. However, the Planning and Development Services Director also has the discretion to demand that more trees be saved using SEPA substantive authority. He suggested that the current problem lies in the tree retention ordinance in terms of how many trees need to be saved and the lack of explicit language related to the safety of trees. However, he pointed out that the standards would not be any different if Sections 20.30.370 and 20.30.380 were amended as proposed. The difference would be that the proposed changes would eliminate the public's opportunity to comment and perhaps convince the Planning and Development Services Director to require greater retention.

Commissioner Kaje said he shares Mr. Maronek's concerns about removing the terms "interests" and "condominiums," but it is important to keep in mind that the tree standards would remain the same even if a formal subdivision process were required. Mr. Maronek agreed the standards specify a minimum that must be preserved, but they do not specify the number that should be preserved for public safety. No one knows how many trees must be retained for public safety. The Planning and Development Services Director has the authority to order such a study by an arborist of his choice at the developer's expense, and the neighborhood has offered to pay for the study, as well.

Ning Jin, Shoreline, expressed support for the comments provided by Mr. Maronek and said he appreciates the Commission's rigorous discussion regarding the proposed code amendments. He agreed that tree retention is a major concern for him. He expressed concern that if the developer's proposed plan is approved and constructed, his property would be placed in serious danger.

Commissioner Behrens suggested the neighborhood would probably be happier with a binding site plan, which would allow a professional to engineer the development in a way that would address their concerns. Mr. Maronek said he does not believe the binding site plan option would be the best

approach, since it would require all the owners to sign off on the plan before it could be finalized. Anytime a condominium parcel is sold under a binding site plan, a significant administrative process would be required, and this would be in the best interest of the developer. He suggested that a formal subdivision would be a better option for all parties.

Helen Drummond Maronek, Shoreline, recalled that earlier in the meeting Commissioner Behrens asked Ms. Simonson to share her thoughts about how a condominium development would alter the character of her neighborhood. Ms. Maronek expressed her opinion that the proposed hammerhead street that would provide access to the new units should not be counted as part of the available land for development. If six homes were developed instead of seven, each individual lot could be larger. However, if seven units are constructed there would be more garbage cans on the street at the end of the hammerhead and more parking on the street, which would require drivers to exit their cars into the traffic area. Allowing developers to get by with less planning and oversight could result in potential lawsuits for the City.

Commissioner Piro reiterated the need for staff to provide clarification to the Highland Terrace Neighborhood Group about the status of the proposed project. Commissioner Pyle said he would be interested in learning whether this particular developer could forward vest in order to take advantage of less restrictive requirements adopted after the application has been submitted.

Commissioner Pyle noted there are different interpretations of the subdivision law and whether a condominium or interest is a "division of land." He asked that the City Attorney provide case law regarding this issue. Ms. Collins advised that she has been unable to find case law. While the Highland Terrace Neighborhood's attorney cited one case in her interpretation document, the City Attorney does not believe the case is applicable because condominiums do not create legal lot divisions. However, she agreed to search for more case law. She clarified that the binding site plan process was removed from the City's Development Code in 2006 as an option for condominiums. Currently, the subdivision process applies to condominiums, and the proposed amendment would remove that option, as well.

Commissioner Pyle requested feedback from the City's SEPA responsible official or environmental coordinator about whether or not they feel they have substantive authority under SEPA to review development proposals of four or more units. He further questioned if this person would be willing to utilize the authority to require an environmental assessment and condition a building permit to address potential impacts on the environment. If so, he requested feedback from staff about how the City would defend this authority if it is ever challenged.

DIRECTOR'S REPORT

Mr. Cohn did not have anything further to report during this portion of the meeting.

UNFINISHED BUSINESS

No unfinished business was discussed.

NEW BUSINESS

Commissioner Wagner suggested the Commission should spend time at their next meeting talking about how they want to proceed with their upcoming role in the Visioning process.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Pyle reported that Commissioner Perkowski put together a very good document to kick off the Commission's discussion of design review. Many of the questions he raised at the end of the document centered on identifying what the Commission is trying to achieve. Commissioner Perkowski noted that, so far, the document has only been distributed amongst the three committee members. However, he agreed to forward the document to all the Commissioners and staff, as well.

AGENDA FOR NEXT MEETING

Chair Kuboi reminded the Commission that the December 18th agenda would include a discussion of the Commission's 2009 Work Program. In addition, the Commission would spend some time preparing for their participation in the remainder of the Visioning process. The Commission also agreed it would be appropriate to have an initial discussion about the draft design review document that was prepared by Commissioner Perkowski.

ADJOURNMENT

The meeting was adjourned at 9:10 P.M.

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Sid Kuboi	Jessica Simulcik Smith
Chair, Planning Commission	Clerk, Planning Commission