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ORDINANCE NO. 347

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON APPROVING A SPECIAL USE PERMIT FOR THE PURPOSE OF INTENSIFYING A NONCONFORMING GAMBLING USE BY ADDING SATELLITE OFF TRACK WAGERING AT 16708 AURORA AVENUE NORTH

WHEREAS, certain property, located at 16708 Aurora Avenue North, is designated on the Zoning Map as Regional Business, and on the Comprehensive Plan Map as Community Business; and

WHEREAS, gambling as a use is permitted at 16708 Aurora Avenue North as a nonconforming use; and

WHEREAS, nonconforming gambling uses may be expanded or intensified through the approval of a Special Use Permit; and

WHEREAS, owners of certain property, located at 16708 Aurora Avenue North have filed an application for Special Use Permit for the purpose of intensifying the existing nonconforming gambling use by adding satellite off track wagering; and

WHEREAS, on February 19, 2004, a public hearing on the application for Special Use Permit was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on February 19, 2004, the Planning Commission recommended approval of the special use permit and entered findings of fact and a conclusion based thereon in support of that recommendation; and

WHEREAS, upon consideration of the application and the Planning Commission recommendation, the City Council has determined that the Special Use Permit application for the property located at 16708 Aurora Avenue North is approved;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:

Section 1. Findings. The Findings and Conclusions of the Shoreline Planning Commission as attached hereto as Exhibit 1 are hereby adopted.

Section 2. Special Use Permit. A Special Use Permit is hereby approved for the intensification of a nonconforming gambling use to add satellite off track wagering to 16708 Aurora Avenue North subject to the conditions in Exhibit 2.

Section 3. Severability. If any provision of this ordinance or the application of a provision to any person or circumstance, is declared invalid, then the remainder of this Agreement, or the application of such provision to other persons or circumstances, shall not be affected.

Section 3. Effective Date. This ordinance shall go into effect five days after passage, and publication of the title as a summary of this ordinance.

PASSED BY THE CITY COUNCIL ON MARCH 22, 2004.

Mayor Ronald B. Hansen

ATTEST:

Sharon Mattioli
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of Publication: March 25, 2004
Effective Date: March 30, 2004

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PLANNING COMMISSION FINDINGS AND DETERMINATION

Exhibit 1

Findings and Determination of the City of Shoreline Planning Commission

Drift on Inn Casino's Special Use Permit , File #201280

Summary-
Upon reviewing the application for the Special Use Permit to allow for off-track wagering at the Drift on Inn, the City of Shoreline Planning Commission did find and determine that the application was in compliance with City codes and not detrimental to the health safety and welfare of the City of Shoreline, and therefore recommended:

APPROVAL OF THE SPECIAL USE PERMIT APPLICATION AS RECOMMENDED BY STAFF AND CONDITIONED BY THE PLANNING COMMISSION.

I. FINDINGS OF FACT

1. **Project Description-**
   - 1.1 Action: Special Use Permit to allow for the intensification (addition) of satellite off track wagering
   - 1.2 Vicinity: 16708 Aurora Ave North
   - 1.3 Parcel Number: 072604-9081
   - 1.4 a.) The subject property has a land use designation "Community Business" as identified on the City of Shoreline's Comprehensive Plan Land Use Map.
     b.) Zoning for the subject property is Regional Business.

2. **Procedural History-**
   - 2.1 Pre-Application meeting held: December 22, 2003
   - 2.2 Neighborhood meeting date: January 5, 2004
   - 2.3 Application Date: January 16, 2004
   - 2.4 Complete Application Date: January 23, 2004
   - 2.5 Public Notice of Complete Application and Public Hearing: January 28, 2004
   - 2.6 End of Public Comment period: February 11, 2004
   - 2.7 Planning Commission Public Hearing: February 19 and 26, 2004
   - 2.8 City Council Public Meeting: March 22, 2004

3 **Public Comment-**
   - *3.1* A total of three comment letters were received in response to the proposed project. Five citizens provided testimony at the hearing. The letters and

will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.

Since the project proposal does not include the expansion of the building – sewer and water certificates were not required. The Shoreline Fire Department reviewed this application and confirmed that there is adequate water flow and fire protection to serve this site.

7. **The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties.**

   Not applicable: No construction is proposed as part of the application.

8. **The special use is not in conflict with the policies of the Comprehensive Plan or the basic purpose of this title.**

   The Comprehensive Plan does not have any policies that specifically relate to gambling. The proposed project as conditioned does support such Comprehensive Plan policies as:

- LU1: Preserve environmental quality by taking into account the land's suitability for development and directing intense development away from natural hazards and important natural resources.
- LU39: Ensure vital and attractive commercial areas through public/private investments including: pedestrian amenities and street aesthetics, such as trees, benches, etc.; adequate transportation services such as bus routes, parking, roads, loading and delivery zones, bicycle and pedestrian routes; public spaces such as plazas, pocket parks, intersection treatments and amenities, and public squares; appropriate signage excluding billboards; transportation demand management programs such as carpooling and bus usage; and gateway treatments and public art.

9. **The special use is not in conflict with the standards of the critical areas overlay.**

   Based on the information supplied by the property owner and the critical area maps available at the City of Shoreline, the proposed project does not appear to be located in any known critical area.

III. Recommendation

The Planning Commission recommends that the Special Use Permit be approved subject to the conditions based on the findings of fact and conclusions contained in this report.

City of Shoreline Planning Commission

Brian F. Doennebrl Date: _____

Chairperson

4. **The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity.**

   Although the proposed use of bar with a card room and off track wagering would be located next to Club Hollywood Casino, staff does not feel that this meets the definition of a detrimental over concentration of a particular use. Considering that the use is currently allowed at Parker's Casino and is proposed to transfer the use to the Drift on Inn, the level of gambling intensity in the City will remain unchanged.

5. **The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.**

   Parking
   Based on the parking calculations prepared by Gabbert Architects and submitted as part of the Special Use Permit application, a total of 196 parking spaces are required for the existing and proposed uses to meet the Shoreline Development Code. The Drift on Inn currently has 140 parking spaces, 56 additional spaces are required to bring the Drift on Inn into compliance with Shoreline's parking code. Condition #4 requires the Drift on Inn to enter into parking agreements with adjacent properties to provide adequate parking for the Casino. Additionally, Condition #5 as proposed should improve the traffic and parking conditions in the neighborhood. Placing no parking any time signs along identified problem areas on 167th Street North will provide a benefit to the neighborhood. The increase in available parking, combined with the additional utilization of free valet parking services should alleviate any overflow parking that may occur on North 167th Street.

   Traffic and Pedestrian Safety
   The traffic study prepared by Transportation Planning & Engineering, Inc for the applicant, indicated that the addition of satellite off track wagering would likely increase the number of p.m. peak hour trips (trips attributed to the project site between the 6:00-7:00 p.m.) from 86 trips currently to 107 trips on weekdays and a similar amount on weekends. This increase represents less than a 1% increase in traffic volume on Aurora Avenue North and according to the traffic engineer that prepared this study, would not represent a noticeable increase in activity by the average driver traveling on Aurora Avenue. To ensure that traffic and pedestrian safety are not compromised by the approval of this application, Condition #6 requires that traffic and parking conditions be reevaluated during the racing season. The Special Use Permit as recommended by the Planning Commission will remain open ended and is to be revisited for additional consideration by the Planning Commission and council after the end of the racing season.

   While not associated with this permit application, it should be noted that as a condition of approval for construction of the Club Hollywood Casino, North 167th Street will have curb, gutter, sidewalk and amenity strip installed from Aurora Avenue east to the Seattle City Light right of way. General pedestrian safety in this area will improve as a result. Construction of this improvement is scheduled to begin prior to March 31st.

6. **The special use will be supported by adequate public facilities or services and**

testimony focused on parking and traffic in the area, as well as Parker's Casino employees testifying as to the appropriateness of placing off track wagering at the Drift on Inn.

4 **SEPA Determination-**

4.1 A SEPA determination was not required for this Special Use Permit pursuant to WAC 197.11.800(3).

5. **Consistency-**

5.1 The application has been evaluated and found to be consistent with the nine criteria listed in Shoreline Municipal Code Section 20.30.330 (B) and the supplemental index criteria for gambling uses in Section 20.40.372.

5.2 This Special Use Permit does not constitute approval for any development proposal.

II. Conclusions

1. **The use will provide a public benefit or satisfy a public need of the neighborhood, district or City.**
The proposal as conditioned will allow adjacent properties to utilize the on site storm drainage system on the Club Hollywood property, which is also owned by the applicant. This condition will alleviate known drainage and flooding problems on parcels to the north of the property. Additionally, the application as conditioned should reduce neighborhood parking and traffic concerns.

2. **The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas.**
The subject property is located adjacent to Aurora Avenue North and is zoned Regional Business. The Regional Business zone permits a mix of commercial uses.

Uses to the North: Club Hollywood Casino
Uses to the South: AAMCO Auto Repair
Uses to the East: Hadath Cemetery; Residential
Uses to the West: Mix of retail uses

Based on the above list of uses a restaurant, bar with a card room and off track wagering is found to be compatible with surrounding uses.

3. **The special use will not materially endanger the health, safety and welfare of the community.**

The project as conditioned will address the issues raised concerning vehicular and pedestrian safety.

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Exhibit 2

Conditions- Drift on Inn Casino SUP #201280

1. The onsite trash collection enclosure shall be brought into compliance with SMC 20.50.150. This requires the receptacle to be fully enclosed and hidden from public view. The method of enclosure shall be construction of wooden enclosure on three sides with self-closing doors on the fourth side. The height of the enclosure shall be six feet. This condition shall be met within 30 days of the approval of the Special Use Permit or shall be considered a violation of the Development Code and subject to code enforcement action.

2. The parking lot lighting for the Drift on Inn Casino shall be brought in to compliance with SMC 20.50.260. The parking lot lighting shall be shielded to protect adjacent properties from glare. The applicant shall provide the City with a parking lot lighting plan within 30 days of approval of the Special Use Permit. This condition shall be met within 30 days of the approval of the Special Use Permit or shall be considered a violation of the Development Code and subject to code enforcement action.

3. An easement shall be recorded against the title of Club Hollywood Casino, parcel number #072604-9086 for access and use of the on site storm drainage bypass system by adjacent properties that was installed as part of Club Hollywood's construction.

4. The property owner shall record an agreement for shared parking encompassing all of the required parking for the Drift on Inn Casino that is located on other parcels of land within 30 days of approval of this application. The total number of spaces required to bring the Drift on Inn Casino to compliance is 56. The agreement shall include the duration of the parking agreement, terms for renewal, terms for revocation, number of shared parking spaces, hours of operation for each use sharing the parking spaces, and other limitations. This document shall be recorded and a copy shall be provided to the City prior to permit issuance. In the event that a shared parking agreement is terminated during the time this use is in existence, the property owner shall have 45 days from approval of this application to locate and secure parking to replace those spaces that are required as part of this permit. If the property owner is unable to comply with this condition, it shall be deemed a code enforcement issue subject to the City's development code enforcement provisions in affect at the time of the violation.

5. Signage shall be installed at the following locations along 167th Street North:
   - "No Parking" signs on the North side of 167th Street from the western boundary of the Seattle City Light Right of Way and Aurora Avenue North.
   - No Parking" signs on the South side of 167th Street between Aurora Avenue North and 30 feet east on 167th Street North.
   - "No Parking" signs on the South side of 167th Street North from the eastern most boundary of the Seattle City Light Right of Way to Stone Avenue North

   The signs shall read "No Parking Any Time" and shall be installed prior to April 15, 2004 per the City's engineering standards.

6. The approval of this SUP permit is granted for the 2004 horse racing season, March 27, 2004 – October 1, 2004 based on the outcome of a parking and traffic study to be funded by the applicant. A deposit of $2,500 shall be required to be submitted in the form of a financial guarantee on or before April 15, 2004. If the actual cost of the study exceeds $2,500, the applicant shall pay the balance. This study shall investigate the impacts of off track wagering on both the casino parking lot and 167th Street North. The traffic study shall be conducted on a Thursday, Friday, and Saturday as well as an additional Saturday on the weekend of the Kentucky Derby, Breeder's Cup, or Preakness. After the end of the 2004 horse racing season, the City of Shoreline Planning Department shall bring a recommendation to either continue to allow or not allow off track wagering before the Planning Commission for reconsideration, with final approval by the City Council.