

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 438, a Site Specific Rezone located at 19201 15 th Avenue NW. File No. 201518
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joe Tovar, PADS Director Steven Szafran, Planner II

PROBLEM/ISSUE STATEMENT:

The issue before Council is an application for a Site Specific Rezone of one parcel located at 19201 15th Avenue NW (see **Attachment C3**). The applicant (the City of Shoreline) has requested that the parcel be rezoned from Residential 12 dwelling units per acre (R-12) to Residential 18 dwelling units per acre (R-18) in order to make the existing number of units on the site (4) conforming to the zoning. **Attachment C2** shows the current land use designation of adjacent parcels while **Attachment C1** shows the current zoning of the immediate area.

A rezone of property in single ownership is a Quasi-Judicial decision of the Council. An open record public hearing was conducted before the Planning Commission on July 6th, 2006. Council's review must be based upon the written record and no new testimony may be accepted. The Planning Commission completed its recommendation to Council on the proposed Rezone on July 6th, 2006.

ALTERNATIVES ANALYZED: The following options are within Council's discretion and have been analyzed by staff:

- The Council could adopt the zoning requested by the applicant and recommended by the Planning Commission and Staff (a rezone from R-12 to R-18) by adopting Ordinance No. 438 (**Attachment A**).
- The Council could deny the rezone request, leaving the zoning at R-12.

FINANCIAL IMPACTS:

- There are no direct financial impacts to the City.

RECOMMENDATION

Staff recommends that the Council adopt Ordinance No. 438, (**Attachment A**) thereby approving the rezone of one parcel located generally at 19201 15th Ave. NW from Residential 12 units per acre (R-12) to Residential 18 units per acre (R-18).

Approved By: City Manager  City Attorney 

INTRODUCTION

The rezone application before Council is a request to change the zoning designation for one parcel generally located at 19201 15th Ave. NW from R-12 to R-18.

A public hearing before the Planning Commission was opened and closed on July 6th, 2006. The Planning Commission Findings and Recommendation are included in Attachment A, Ex. B.

The Planning Commission recommended that the rezone of the property from R-12 to R-18 be approved (by a vote of 5-2). The draft minutes of the public hearing are included in **Attachment D**.

BACKGROUND

In 1998 the City of Shoreline adopted its first Comprehensive Plan. This document includes a map that identifies future land use patterns by assigning each area a land use designation. The subject parcel, and those adjoining it to the north and east were designated High Density Residential in the Comprehensive Plan. The Comprehensive Plan document specified: R-12 through R-48 as appropriate zoning districts for this designation. The current zoning (R-12) and the requested reclassification (R-18) of the parcel are both consistent with the High Density Residential land use designation.

The structure that is currently on-site was originally constructed as a duplex in 1976. In 1984, the structure was converted to a triplex with permits from King County. In 2000, the City received a complaint for work without a permit. The owner at that time converted the garage to a fourth unit, constructed a parking area and built a rockery. In 2002, Richard and Pamela Burt purchased the property.

In 2003 through 2004, the City received more complaints regarding parking in the rear of the property, illegal home occupation, illegal number of units (5 units at the time, though one has been removed) and additional work being done without a permit. After these complaints, Code Enforcement Case #1195 was started. The owner applied for permits but fees were never paid and the permits have expired.

In 2005, the PADS Director concluded that the quickest and surest way to obtain building code compliance was through initiation of a rezone process. The City initiated Rezone #201518 to enable resolution of the zoning and any other outstanding issues on the site. Please refer to **Attachment C5** for a more detailed chronological timeline of the Burt property.

PROCESS

The application process for this project began on April 17th, 2006, when a neighborhood meeting was held with City staff and property owners within 500 feet of the proposed rezone. The formal application was determined complete on April 24th, 2006.

The requisite public hearing was held before the Planning Commission on July 6th, 2006. The Planning Commission made a recommendation and formulated Findings and Determination on the night of the public hearing. The Planning Commission voted 5-2 to recommend approval of the rezone with added conditions.

PUBLIC COMMENT

The City received 59 comment letters in response to the standard notice procedures for this application (the written comment deadline was June 15th, 2006). The property owner and seven adjacent neighbors testified at the Planning Commission public hearing on this proposed action.

OPTIONS

The following options are: 1) The adoption of the Planning Commission recommendation, 2) Adoption of the Planning Commission recommendations with the staff suggested modification of one condition or 3) Denial of the rezone request.

REZONE TO R-18 – PLANNING COMMISSION RECOMMENDATION

The applicant has requested that the subject parcel be rezoned to R-18. Planning Commission in their Findings and Determination (**Attachment A, Ex. A**) found that a rezone to R-18 has been evaluated and found to be consistent with the rezone decision criteria, listed below, provided in Section 20.30.320(B) of the Development Code.

- Criteria 1: The rezone is consistent with the Comprehensive Plan.*
- Criteria 2: The rezone will not adversely affect the public health, safety or general welfare.*
- Criteria 3: The rezone is warranted in order to achieve consistency with the Comprehensive Plan.*
- Criteria 4: The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.*
- Criteria 5: The rezone has merit and value for the community.*

DENIAL OF REZONE REQUEST

The Council may review the written record and determine that R-12 zoning is the most appropriate designation for the subject parcel. This determination would be consistent with the Comprehensive Plan designation of "High Density Residential" for the parcel, as this designation includes both the existing zoning (R-12) and the requested zoning (R-18). The site is currently developed with four units at an R-18 density (resulting in an illegal structure); however, if the rezone is denied and the current R-12 remains in place; the property owner will be required to remove the fourth unit to bring the structure in compliance with the zoning code.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 438, (**Attachment A**) thereby approving the rezone of one parcel located at 19201 15th Avenue NW from Residential 12 units per acre (R-12) to Residential 18 units per acre (R-18).

ATTACHMENTS

Attachment A: Ordinance No. 438: R-12 to R-18.

Exhibit A – Planning Commission Findings and Determination

Exhibit B – Legal Description

Exhibit C – Concomitant Agreement

Attachment C: Planning Commission Staff Report

C1: Vicinity Map with Zoning Designations

C2: Vicinity Map with Comprehensive Plan Land Use Designations

C3: Site Inventory Map (Applicants Rendition of the Proposal)

C4: List of SEPA Comments Received

C5: Timeline of Burt Property

C6: Mr. Burt's Intention Letter

Attachment D: Draft Planning Commission Minutes- July 6th, 2006

ORDINANCE NO. 438

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP TILE NUMBER 443 CHANGING THE ZONING FROM RESIDENTIAL 12 DU-AC (R-12) TO RESIDENTIAL 18 DU-AC (R-18) WITH CONTRACT REZONE R-CZ-06-02, SUBJECT TO RESTRICTIVE COVENANTS, FOR THE PARCEL LOCATED AT 19201 15th AVENUE NW (PARCEL NUMBER 0226039205).

WHEREAS, the City of Shoreline and the owner of the property of parcel number 0226039205 have filed an application to reclassify the property from Residential 12 units per acre (R-12) to Residential 18 units per acre (R-18); and

WHEREAS, on July 6th, 2006, a public hearing on the application for reclassification of property was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on July 6th, 2006, the Planning Commission recommended approval of the reclassification to R-18 as well as a number of conditions for redevelopment, subject to a covenant restricting the uses and setting conditions of development as specified in the Contract Zone and Concomitant Zoning Agreement R-CZ-06-02 and entered findings of fact and conclusions based thereon in support of that recommendation; and

WHEREAS, the City Council does concur with the Findings and Determinations of the Planning Commission specifically that the reclassification of property, located at 19201 15th Ave. NW (parcel number 0226039205) to R-18 is consistent with the goals and policies of the Comprehensive Plan and appropriate for this site;

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

Section 1. Findings. The Findings and Determinations on File No. 201518 as set forth by the Planning Commission on July 6th, 2006 and as attached hereto as Exhibit A is hereby adopted.

Section 2. Amendment to Zoning Map. The Official Zoning Map Tile 443 of the City of Shoreline is hereby amended to change the zoning classification of said parcel described and depicted in Exhibit B located at 19201 15th Ave. NW (parcel number 0226039205) from R-12 to R-18 with Contract Rezone R-CZ-06-02 subject to the Concomitant Zoning Agreement attached hereto as Exhibit C, which covenant is incorporated herein as part of this ordinance by reference, and all uses of the property rezoned by this ordinance shall be in strict conformity with the provisions of the concomitant zoning agreement. Nothing in this ordinance or the concomitant zoning agreement attached hereto shall limit the Shoreline City Council from amending, modifying, or terminating the land use designation adopted by this ordinance.

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 Ordinance, or the application of such provision to other persons or circumstances, shall not be affected.

Section 4. Effective Date. This ordinance shall go into effect five days after passage, publication of the title as a summary of this ordinance and the property execution and recording of the Concomitant Zoning Agreement attached hereto as Exhibit C; provided, that if such agreement is not executed and recorded within thirty (30) days from the date of final passage of this ordinance, this ordinance shall become void and not go into effect. If owners of the property file a written request, the property shall revert to the original land use designation prior to this rezone or such other default land use designation as may hereafter be adopted by the City Council.

PASSED BY THE CITY COUNCIL ON AUGUST 28, 2006.

Mayor Robert L. Ransom

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:

Effective Date:

**FINDINGS AND DETERMINATION OF THE CITY OF SHORELINE PLANNING
COMMISSION**

Rick Burt Rezone Request File #201518

Summary-

Following the public hearing and deliberation on the request to change the zoning designation for a 11,020 Sq. Ft. parcel located at 19201 15th Avenue NW, the City of Shoreline Planning Commission has determined that the request is in compliance with City codes and not detrimental to the health, safety, or welfare of the City of Shoreline, and therefore recommends approval of such action.

I. FINDINGS OF FACT**1. Project Description-**

- 1.1 Rezone the subject parcel from R-12 (Residential 12 units per acre) to R-18 (Residential 18 units per acre) in order to make the existing number of units on the site (4) conforming to the zoning.
- 1.2 Site Address: 19201 15th Avenue NW
- 1.3 Parcel Number: 0226039205
- 1.4 Zoning: R-12
- 1.5 The subject property has a current land use designation of High Density Residential identified on the City of Shoreline's Comprehensive Plan Land Use Map. A High Density Residential designation is consistent with the following zoning: R-12, R-18, R-24 and R-48.

2. Procedural History-

- 2.1 Public hearing held by the Planning Commission: July 6th, 2006
- 2.2 Notice of Public Hearing and SEPA Determination of Nonsignificance: June 1st, 2006
- 2.3 End of 14 day Public Comment Period: May 25th, 2006
- 2.4 Notice of Application with Optional DNS: May 11th, 2006
- 2.5 Complete Application Date: April 24th, 2006
- 2.6 Application Date: March 23rd, 2006
- 2.7 Neighborhood meeting Date: April 17th, 2006

3. Public Comment-

- 3.1 The following individuals participated in Neighborhood Meetings:

21 people signed the mailing list at the required Neighborhood Meeting. General consensus was that the neighborhood is concerned about the illegal structure (four units on a site where the zoning permits only three), traffic, work without permits and preferential treatment of the property owner.

- 3.2 Written Comments have been received from:

Approximately 60 letters were received in response to the standard notice procedures for this application.

- 3.3 Oral testimony has been received from:

In addition to the applicant, seven adjacent property owners testified at the open record public hearing. The comments included: Access, traffic, work without permits and the illegal structure.

4 SEPA Determination-

- 4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. City staff determined that the proposal will not have a probable significant adverse impact on the environment and that an environmental impact statement is not required under RCW 43.21C.030 (2) (c). A notice of determination of nonsignificance was issued on June 1st, 2006.

7. Consistency –

- 5.1 Site Rezone:

The application has been evaluated and found to be consistent with the five criteria listed in Shoreline Municipal Code Section 20.30.320 (B).

- 5.2 A recommendation to approve the Rezone does not constitute approval for any development proposal. Applicable permits shall be obtained prior to construction. Permit applications shall show compliance with the 1998 King County Storm Water Design Manual and Title 20 of the Shoreline Municipal Code (SMC). Applicable sections of the SMC include but are not limited to the following: Dimensional and Density Standards

20.50.010, Tree Conservation 20.50.290, Surface and Stormwater Management 20.60.060, and Streets and Access 20.60.140 and any conditions of the Rezone.

II. CONCLUSIONS

SITE REZONE:

Rezoning is subject to criteria contained in the Development Code. The proposal must meet the decision criteria listed in Section 20.30.320(B) of the SMC. The criteria are listed below, with a brief discussion of how the request meets the criteria.

1. The rezone is consistent with the Comprehensive Plan.

The Comprehensive Plan land use map identifies the subject parcel as *High Density Residential*. The site is currently zoned R-12 and is developed with a fourplex at a density of 15.8 dwelling units per acre. The density, though non-conforming to the zoning, is consistent with the density goals of the Comprehensive Plan which plans for these sites to accommodate from 12 to 48 dwelling units per acre.

The current structure is not consistent with the density goals of the R-12 zoning designation which allows a maximum density of 12 units per acre, or three dwelling units on this site. The proposed zone change is consistent with the Comprehensive Plan Land Use designation of High Density Residential and will allow the density of the existing structure to become legal in the zoning designation of R-18.

2. The rezone will not adversely affect the public health, safety or general welfare.

The proposal is to limit the number of units on this site to 4, which is the number of units currently on the site. Though the existing fourth unit is illegal, its existence has not had an adverse impact on the neighborhood.

The Commission does not believe that this rezone will cause additional requests for R-18 zoning south of this site. The comprehensive plan designation of the properties south of the site is MDR (Medium Density Residential) which permits R-8 and R-12 zoning. A comprehensive plan amendment is required to obtain greater densities than R-12. A Comprehensive Plan Amendment is a policy decision that would go to the Planning Commission for recommendation and final action by the City Council.

In an effort to protect the existing single-family neighborhood to the west and to advance the goals and policies of the low density residential land use designation, the Commission proposes several conditions. They are:

- A condition to block access to NW 192nd Street along the western border of the subject site for any tenant in perpetuity. By eliminating access to NW 192nd Street and waiving the requirement for additional parking spaces on-site, there is less potential for impact on the neighborhood to the west than under the current zoning designation which would permit tenant access from the west.
- Limit the number of units to four.
- Prohibit access easements across the site to serve other property owners
- Require a 10 foot wide, Type I landscape buffer along the western edge of the property.

3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan.

The subject parcel is currently zoned R-12. The application to change the zoning of the parcel to R-18 was initiated by the PADS Director in order to make an existing illegal building consistent with the density of the zone. The site's Comprehensive Plan land use designation is *High Density Residential*. Consistent zoning designations for this land use designation include: R-12, R-18, R-24, and R-48.

The current zoning in the vicinity of the project includes R-6, R-8, R-18, R-24, and R-48 (see **Attachment 1** for zoning map). The uses in the vicinity include single-family residential, multi-family residential, nursing home, retail, restaurants and a bowling alley. Access to the subject property will continue to be from 15th Avenue NW, a Collector Arterial street with access to transit routes along Richmond Beach Road. Higher intensity development is encouraged along arterials where vehicular trips can be accommodated. R-18 zoning is an appropriate designation for the subject site, as it reflects a similar level of intensity as those uses near it along 15th Avenue NW.

4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

There appear to be no negative impacts to the properties in the immediate vicinity of the subject rezone provided that the added conditions are imposed. The

proposed rezone would allow uses on the site that are similar to those uses found on the parcels to the north and east.

5. The rezone has merit and value for the community.

The rezone will make a non-conforming use conforming as to the zoning. It will not cause additional impacts to any part of the community because the use already exists and there will be no additional density allowed on the site. In addition, the rezone as conditioned will eliminate an access point currently available to the tenants that would permit access from NW 192nd Street and through a large single family neighborhood.

Unless conditions are applied to this property through a rezone process, the property owner has the right to construct a driveway and parking spaces on the western portion of the parcel. This course of action might increase the traffic in the neighborhood to the west even though the current structure would be required to eliminate a unit bringing the total unit count to three.

III. RECOMMENDATION

Based on the Findings, the Planning Commission recommends approval of application #201518; a rezone from R-12 to R-18 with the following conditions:

1. Limit the number of units to four.
2. Record a legal document in a form acceptable to the City Attorney that would eliminate vehicular access to NW 192nd Street except for maintenance or emergency vehicles.
3. Prohibit access easements across the site to serve other property owners.
4. Require a 10-foot wide, Type I landscape buffer along the western edge of the property.

City of Shoreline Planning Commission

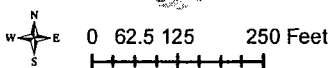
Chairperson

Date: _____



SHORELINE

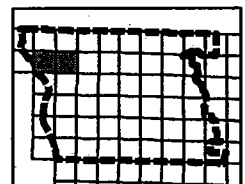
Geographic Information System
City of Shoreline Zoning



Legend

	CB - Community Business		R24 - Residential 24 units/Acre
	CZ - Contract Zone		R4 - Residential 4 units/Acre
	I - Industrial		R48 - Residential 48 units/Acre
	NB - Neighborhood Business		R6 - Residential 6 units/Acre
	NCBD - North City Business District		R8 - Residential 8 units/Acre
	O - Office		RB - Regional Business
	R12 - Residential 12 units/Acre		RB-CZ - Regional Business/Contract Zone
	R18 - Residential 18 units/Acre		

	Zone District Boundary
	Parcel Line
	Street



No Warranties of any sort, including accuracy, fitness, or merchantability accompany this product.

Created on 4-17-06

**CONCOMITANT REZONE AGREEMENT AND
COVENANT RUNNING WITH THE LAND**

Contract Zone No. R-CZ-06-02

This Concomitant Rezone Agreement and Covenant (hereinafter "Covenant") dated _____, 2006, by and between the City of Shoreline, Washington, a municipal corporation (hereinafter "City"), and _____ (hereinafter "Owners").

RECITALS

A. Owners are the owners of real property located in King County legally described as:

E 185 FT OF N1/2 OF N1/2 OF SE1/4 OF NE1/4 OF SE1/4 LESS N 100
FT TH OF LESS CO RD.

Parcel No. 0226039205

(Hereafter described as "Property").

B. The City of Shoreline and Owners have applied to rezone the Property from its current zoning to Residential 18 units per acre (R-18), consistent with the Comprehensive Plan adopted by the City pursuant to the Growth Management Act (RCW Ch.36.70A).

C. The City has conditionally approved the rezone application provided the Property is developed under conditions and limitations, which shall be considered as a qualification to the City's zoning designation.

NOW THEREFORE, the City and Owners agree as follows:

- 1. Title.** Owners are the sole and exclusive owners of the Property described above.
- 2. Covenant.** Owners covenant and agree, on behalf of themselves and their successors and assigns, that during the entire period that the Property is zoned R-CZ-06-02, the Property will be developed only in accordance with this Covenant and subject to the conditions provided herein. The Owners specifically agree that this Covenant touches, concerns, enhances, benefits and runs with the Property.
- 3. Uses.** The Owners or their successors may construct a residential development on the Property subject to the following conditions:

Condition # 1: No more than four units may be built on the property.

Condition # 2: Vehicular access to the property from NW 192nd Street is prohibited except for maintenance or emergency vehicles.

Condition #3: Access easements across the site to serve other property owners are prohibited.

Condition #4: Owners shall plant and maintain a 10-foot wide Type I landscape buffer along the western edge of the property.

4. Binding Effect. This Covenant shall remain in full force and effect, and be binding upon the Owners and their successors and assigns until 1) amended, modified or terminated by an ordinance adopted by the Shoreline City Council, or 2) Owners of all interest in the property file a written declaration with the City that they wish the Property to revert to the R-12 land use designations existing immediately prior to passage of Ordinance No. 438 or such other default zoning as may have been adopted by the City Council for the Property subsequent to this agreement. Obligations contained herein shall be enforceable against all such successors and assigns.

5. Filing. A copy of this Covenant will be filed for record with the King County Records and Elections Division.

6. Remedies. Violations of this Covenant shall be enforced by the City according to enforcement procedures applicable to zoning code violations.

7. Attorney Fees. In the event that legal action is commenced to enforce or interpret any revision of this Covenant, including any appeal thereof, the substantially prevailing party shall be entitled to its costs including reasonable attorney's fees.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the date first above written.

OWNER(s)

CITY OF SHORELINE

Robert L. Olander, City Manager

APPROVED AS TO FORM:

Ian Sievers, City Attorney

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____,
representing _____ appeared before
me, and said person acknowledged that he signed this instrument and acknowledged it to
be the free and voluntary act of such party for the uses and purposes mentioned in this
instrument.

DATED: _____

By: _____
Notary Public in and for the State of Washington
residing at _____.
My commission expires _____.

Commission Meeting Date: July 6th, 2006

Agenda Item:

**PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON**

AGENDA TITLE: Type C Action: Rezone Application for one parcel generally located at 19201 15th Avenue NW from R-12 (Residential 12 dwelling units/acre) to R-18 (Residential 18 dwelling units/acre).

DEPARTMENT: Planning and Development Services

PRESENTED BY: Joseph W. Tovar, FAICP, Director
Steven Szafran, Planner II

I. PROPOSAL

The Department of Planning and Development Services, in conjunction with the property owner, Richard and Pamela Burt, proposes to modify the existing zoning category for an 11,020 square foot parcel located at 19201 15th Avenue NW. The application before the Planning Commission is a request to change the zoning designation from R-12 (Residential - 12 dwelling units per acre) to R-18 (Residential 18 dwelling units per acre). There will be no change to the existing structure on-site.

The purpose of this zone change is to make the existing fourplex conform to the City's Zoning Code. A site plan showing the site configuration of the proposal is included as **Attachment 1** (applicant's rendition of the proposal). A vicinity map showing existing zoning for the project site and adjacent properties is located in **Attachment 2**. The parcel has a Comprehensive Plan Land Use designation of High Density Residential, and both the existing and proposed zoning are consistent with this designation. (**Attachment 3** illustrates the Comprehensive Plan Land Use designations).

Local land use decisions that are not of area wide significance are processed as quasi-judicial actions. Because this is a Site Specific Zone Change it shall be processed per RCW 42.36.010 as a Type C quasi-judicial action.

With the current designation of High Density Residential and a zoning of R-12, the site can support 3 dwelling units subject to the Shoreline Development Code Standards. There is currently a fourplex on-site that will remain unchanged. The proposed rezone would allow the current structure to become conforming to the City of Shoreline's Development Code and at the same time allow the City to review pending building permits. If the proposed rezone to R-18 is approved, the site could potentially support 5 housing units although staff is recommending the number of units be limited to four. In addition, staff recommends that access to the site from NW 192nd Street will be limited so as to exclude residential parking from accessing via the western property boundary.

This report summarizes the issues associated with this project and discusses if the proposal meets the criteria for rezone outlined in the Shoreline Municipal Code and the goals of the Comprehensive Plan. Type C Actions are reviewed by the Planning Commission, where an Open Record Public Hearing is held and a recommendation for approval or denial is developed. This recommendation is then forwarded to City Council, which is the final decision making authority for Type C Actions.

II. HISTORY OF THE BURT PROPERTY

The structure that is currently on-site was originally constructed as a duplex in 1976. In 1984, the structure was converted to a triplex with permits from King County. In 2000, the City received a complaint for work without a permit. The owner at that time converted the garage to a fourth unit, constructed a parking area and built a rockery. In 2002, Richard and Pamela Burt purchased the property.

In 2003 through 2004, the City received more complaints regarding parking in the rear of the property, illegal home occupation, illegal number of units (5 units were there at the time) and additional work being done without a permit. After these complaints, Code Enforcement Case #1195 was started. Permits were applied for by Mr. Burt but fees were never paid and the permits are technically expired.

In 2005, the PADS Director concluded that the quickest and surest way to obtain building code compliance was through initiation of a rezone process. The City initiated Rezone #201518 to enable resolution of the zoning and any other outstanding issues on the site. Please refer to **Attachment 5** for a more detailed chronological timeline of the Burt property.

III. FINDINGS

1. SITE

The subject site is generally located on the west side of 15th Avenue NW, approximately 600 feet south of Richmond Beach Road. The parcel is developed with one fourplex that will remain unchanged after the zone change. The parcel measures 11,020 square feet in area (approximately .25 acres). There are currently 4 parking spaces on-site, 3 less than the Code requires for four dwelling units (1.8 parking spaces per unit).

The site is sloping from east to west and has a severe incline towards the middle of the property. The highest elevation is approximately 230 feet at the southeast corner of the parcel and the lowest elevation is 210 feet at the northwest property line. There are a few significant trees on site that are located toward the west side of the property. None of the trees are proposed to be cut. A "significant tree" is defined in the Shoreline Municipal Code Title 20 as a healthy, windfirm, and nonhazardous tree eight inches or greater in diameter at breast height if it is a conifer and 12 inches or greater at breast height if deciduous.

2. NEIGHBORHOOD

The project site is located in the Richmond Beach Neighborhood. The subject parcel has two frontages. Access to the property is currently gained from 15th Avenue NW, a street that is classified as a Collector Arterial. The parcel also has access to NW 192nd Street, although it is not currently utilized.

The Comprehensive Plan Land Use designation for the parcels to the north and east are High Density Residential. The parcels to the south and southeast are designated Medium Density Residential and parcels to the west are designated Low Density Residential. The Comprehensive Plan Land Use Designations and Zoning for the project sites and immediate vicinity are illustrated in **Attachments 2 and 3**.

As indicated previously the site is zoned R-12 and has a land use designation of High Density Residential which allows up to an R-48 zoning category. The current zoning of the parcel immediately to the north of the subject property is R-18, and is developed with apartments. To the south is a single family home zoned R-8, to the east, across 15th Avenue NW, are duplexes and townhomes zoned R-12 and R-18 and to the west are single-family homes zoned R-6.

3. TIMING AND AUTHORITY

The application process for this project began on April 17th, 2006, when a neighborhood meeting was held by city staff at Richmond Beach Congregational Church. A public notice of application including the SEPA comment period was advertised, posted and mailed on April 26th, 2006. A Corrected Notice of Application was posted at the site, advertisements were placed in the Seattle Times and Shoreline Enterprise, and notices were mailed to property owners within 500 feet of the sites on May 11th, 2006 after a flaw in the address was found on the original Notice Of Application. A Notice of Public Hearing with Determination of Nonsignificance was advertised, posted and mailed to all property owners within 500 feet of the subject site on June 1st, 2006.

Many comments have been received throughout the rezone process. **Attachment 4** lists the names and summary of the comments received. General comments from the community include concerns about: Increased traffic, traffic from adjacent parcels on 15th Avenue NW, limited sight distance on 192nd and 17th NW, drainage from a new parking lot and driveway on 192nd, reduced property values, structure converted without building permits, waiving the rezoning fee, and the rezone sets a poor precedent in the area.

Rezone applications shall be evaluated according to the five criteria outlined in Section 20.30.320 (B) of The Shoreline Municipal Code (SMC). The City Council may approve an application for rezone of property if the five decision criteria are met.

4. CRITERIA

The following criteria discusses if the proposal meets the decision criteria listed in Section 20.30.320(B) of the SMC. The reader will find that the criteria are integrated and similar themes and concepts will run through the discussion of all.

Criteria 1: The rezone is consistent with the Comprehensive Plan.

The Comprehensive Plan land use map identifies the subject parcel as *High Density Residential*. The site is currently zoned R-12 and is developed with a fourplex at a density of 15.8 dwelling units per acre. The density, though non-conforming to the zoning, is consistent with the density goals of the Comprehensive Plan which plans for these sites to accommodate from 12 to 48 dwelling units per acre.

The current structure is not consistent with the density goals of the R-12 zoning designation which allows a maximum density of 12 units per acre or three dwelling units on this site. The proposed zone change is consistent with the Comprehensive Plan Land Use designation of High Density Residential and will allow the density of the existing structure to become conforming to the zoning designation of R-18.

The Shoreline Comprehensive Plan has established a growth target of 1,600-2,400 new housing units during the next 20-year planning period. The Comprehensive Plan identified different areas of the City where growth would likely occur and could be accommodated. A Comprehensive Plan Land Use map was adopted, and in some areas of the City allowed densities and intensity of uses to be increased. In some instances this change occurred in areas that had previously developed at a lower intensity (as is the case of the subject parcel) and denser development is anticipated in the future when the underutilized parcels are redeveloped.

The boundary between the High Density and Medium Density Residential comprehensive plan designations is at the southern boundary of this site. The zoning south of the site cannot exceed R-12 unless city policy changes through a comprehensive plan amendment process.

R-18 zoning is an appropriate designation for the site in order to achieve many goals and policies of the Comprehensive Plan, including:

LU 1: Ensure that the land use pattern of the City encourages needed, diverse, and creative development, protects existing uses, safeguards the environment, reduces sprawl, promotes efficient use of land, encourages alternative modes of transportation and helps to maintain Shoreline's sense of community.

The proposed rezone will promote a more efficient use of land by allowing four units on a property and not create additional negative impacts on the nearby neighborhood.

LU8: Ensure that land is designated to accommodate a variety of types and styles of housing units adequate to meet the future needs of Shoreline citizens.

As Shoreline's demographics change, there will be increased demand for smaller units that are affordable. A fourplex is an example of one housing type that provides an alternative housing choice.

H28: Assure that site and building regulations and design guidelines create effective transitions between substantially different land uses and densities

The staff recommends a condition to eliminate most vehicle access from NW 192nd Street. This will significantly reduce the likelihood that those who live on this site will travel through the single family neighborhood to park in the rear of these units. Under the current zoning, absent the recommended condition, the owner could build a parking lot behind the building and encourage tenants to use the area in back (west of the fourplex) for parking rather than the area in front (adjacent to 15th Ave NW).

Criteria 2: *The rezone will not adversely affect the public health, safety or general welfare.*

The proposal is to limit the number of units on this site to 4, which is the number of units currently on the site. Though the existing fourth unit is non-conforming, its existence has not had an adverse impact on the neighborhood.

Staff does not believe that this rezone will cause additional requests for R-18 zoning south of this site. The comprehensive plan designation of the properties south of the site is MDR (Medium Density Residential) which permits R-8 and R-12 zoning. A comprehensive plan amendment is required to obtain greater densities than R-12. A Comprehensive Plan Amendment is a policy decision that would go to the Planning Commission for recommendation and final action by the City Council.

In an effort to protect the existing single-family neighborhood to the west and to advance the goals and policies of the low density residential land use designation, staff is proposing a condition to block access to NW 192nd Street along the western border of the subject site for any tenant in perpetuity. By eliminating access to NW 192nd Street and waiving the requirement for additional parking spaces on-site, there is less potential for impact on the neighborhood to the west than under the current zoning designation which would permit tenant access from the west.

Criteria 3: *The rezone is warranted in order to achieve consistency with the Comprehensive Plan.*

The subject parcel is currently zoned R-12. The application to change the zoning of the parcel to R-18 was initiated by the PADS Director in order to make an existing nonconforming building consistent with the density of the zone. The site's Comprehensive Plan land use designation is *High Density Residential*. Consistent zoning designations for this land use designation include: R-12, R-18, R-24, and R-48.

The current zoning in the vicinity of the project includes R-6, R-8, R-18, R-24, and R-48 (see **Attachment 1** for zoning map). The uses in the vicinity include single-family residential, multi-family residential, nursing home, retail, restaurants and a bowling alley. Access to the subject property will continue to be from 15th Avenue NW, a Collector Arterial street with access to transit routes along Richmond Beach Road. Higher intensity development is encouraged along arterials where vehicular trips can be accommodated. R-18 zoning is an appropriate designation for the subject site, as it reflects a similar level of intensity as those uses near it along 15th Avenue NW.

Criteria 4: The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.

There appears to be no negative impacts to the properties in the immediate vicinity of the subject rezone provided that the added conditions are imposed. The proposed rezone would allow uses on the site that are similar to those uses found on the parcels to the north, east and south. The following is a brief summary demonstrates how the project addresses each of these.

Water & Sewer

Conditional statements from the Shoreline Wastewater Management District and Seattle Water Department indicate that adequate capacity exists for development at R-18 zoning levels. With a condition limiting development to the existing number of units, it is unlikely that usage would vary much in the future.

Stormwater

All stormwater must be treated and detained per the requirements of the 1998 King County Surface Water Design Manual and the Surface and Stormwater Management sections of the SMC (20.60.060 through 20.60.130).

Traffic/Circulation

Traffic trip estimates are based on the existing fourplex. The code requires a traffic study to be done if the P.M. peak hour trips are greater than 20 (SMC 20.60.140(A)). The average P.M. peak hour trip for the existing fourplex is estimated to be 2.16 which does not require further study.

Tree Removal

There are a few significant trees located on the subject site. The primary significant trees are located on the western portion of the site. The SMC requires retention of at least 20% of the significant trees (SMC 20.50.350(B) (1)). The owner does not have any plans to cut trees at this time because he is not planning to redevelop the property. Tree protection and replanting will be evaluated if the owner decides to redevelop at some time in the future.

Criteria 5: The rezone has merit and value for the community.

The rezone will make a non-conforming use conforming as to the zoning. It will not cause additional impacts to any part of the community because the use already exists and there will be no additional density allowed on the site. Unless conditions are applied to this property through a rezone process, the property owner has the right to construct a driveway and parking spaces on the western portion of the parcel. This course of action might increase the traffic in the neighborhood to the west even though the current structure would be required to eliminate a unit bringing the total unit count to three.

In addition, the rezone as conditioned will eliminate an access point currently available to the tenants that would permit access from NW 192nd Street and through a large single family neighborhood.

IV. CONCLUSIONS

1. **Consistency-** The proposed reclassification for the subject properties is consistent with the Washington State Growth Management Act, the City of Shoreline Comprehensive Plan, and the City of Shoreline Development Code.
2. **Compatibility-** The proposed zoning is consistent with existing and future land use patterns identified in the Comprehensive Plan.
3. **Housing / Employment Targets-** Since no new units will be constructed; this rezone will minimally impact the attainment of Shoreline's Housing targets by limiting the number of units that could potentially be built on this parcel in the future if the proposed condition is imposed.
4. **Environmental Review-** It has been determined that per WAC 197.11.600 (2) the SEPA obligations for analyzing impacts of the proposed rezone are fulfilled by previous environmental documents on file with the City. The FEIS prepared for the City of Shoreline's Comprehensive Plan, dated November 9, 1998, and is incorporated by reference to satisfy the procedural requirements of SEPA.
5. **Infrastructure Availability-** There appears to be adequate infrastructure improvements available in the project vicinity. This includes adequate storm, water, and sewer capacity for the future development.

V. PLANNING COMMISSION ROLE AND OPTIONS

As this is a Type C action, the Planning Commission is required to conduct a Public Hearing on the proposal. The Commission should consider the application and any public testimony and develop a recommendation for rezone approval or denial. The City Council will then consider this recommendation prior to their final adoption of the application.

Planning Commission has the following options for the application:

1. Recommend approval to rezone 19201 15th Ave NW from Residential 12 units per acre (R-12) to Residential 18 units per acre (R-18) with the following conditions based on the findings presented in this staff report.

Staff recommended conditions:

1. Limit the number of units to four.
 2. Record a legal document in a form acceptable to the City Attorney that would eliminate the potential vehicular access to NW 192nd Street by tenants of any properties accessing from 15th Ave NW.
2. Recommend approval to rezone 19201 15th Ave NW from Residential 12 units per acre (R-12) to Residential 18 units per acre (R-18) with modified conditions based on the findings presented in this staff report and additional findings made by the Planning Commission.
 3. Recommend denial of the rezone application and the Residential 12 units per acre (R-12) zoning remains based on specific findings made by the Planning Commission.

VI. PRELIMINARY STAFF RECOMMENDATION

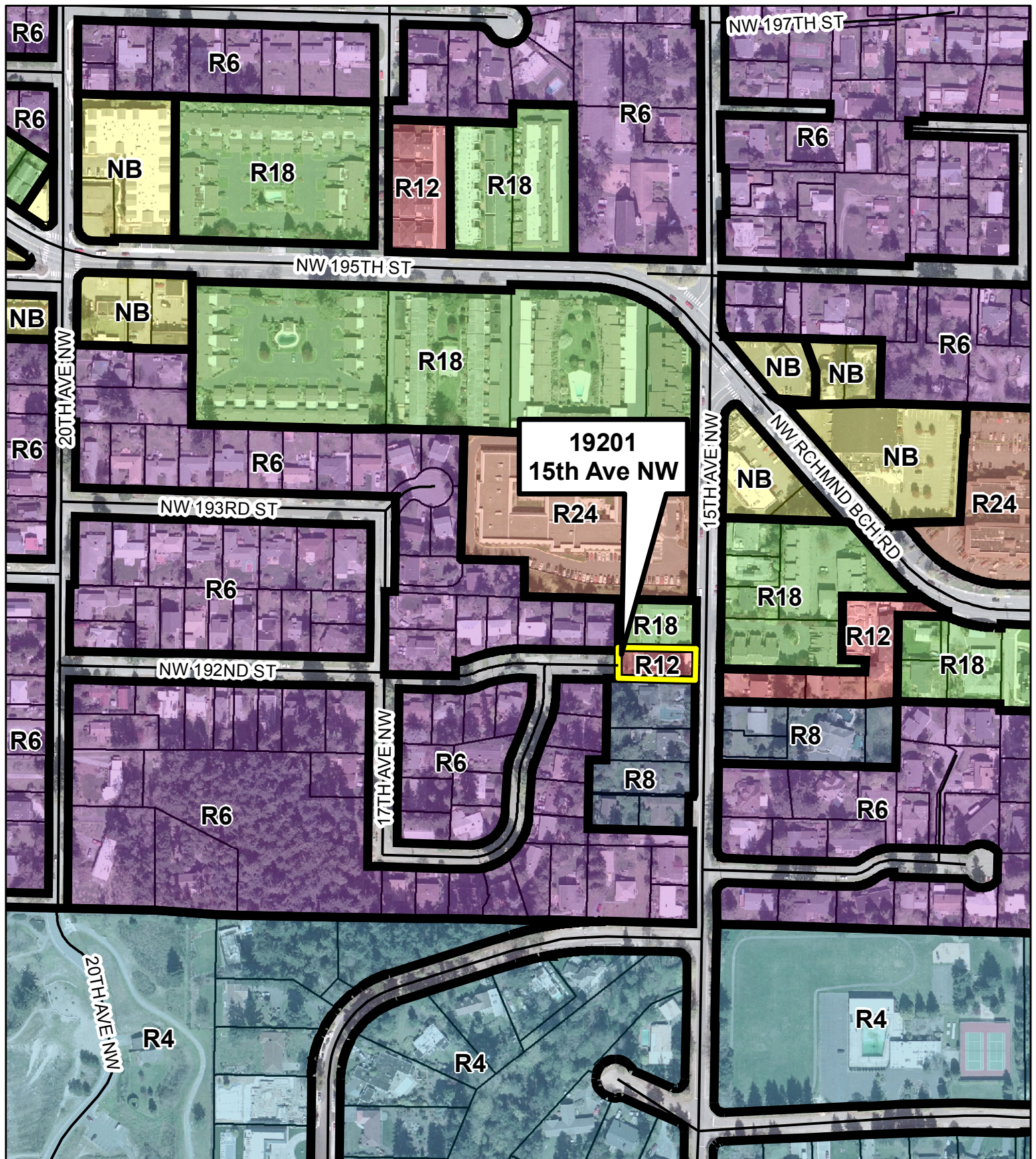
Staff recommends that the Planning Commission move to recommend to the City Council that R-18 zoning be adopted for the properties generally located at 19201 15th Avenue NW with the following conditions:

1. Limit the number of units to four.
2. Record a legal document in a form acceptable to the City Attorney that would eliminate the potential vehicular access to NW 192nd Street by tenants of any properties accessing from 15th Ave NW.

And enter into findings based on the information presented in this staff report that this proposal meets the decision criteria for the reclassification of property as outlined in the Shoreline Municipal Code Section 20.30.320.

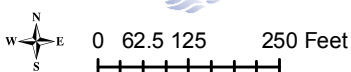
VII. ATTACHMENTS

Attachment 1: Vicinity Map with Zoning Designations
Attachment 2: Vicinity Map with Comprehensive Plan Designations
Attachment 3: Site Inventory Map (Applicant's rendition of the proposal)
Attachment 4: List of SEPA Comments Received
Attachment 5: Timeline of Burt Property
Attachment 6: Mr. Burt's Intention Letter



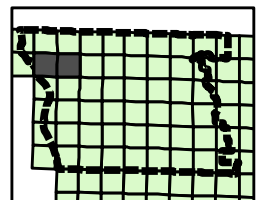
SHORELINE

Geographic Information System
City of Shoreline Zoning



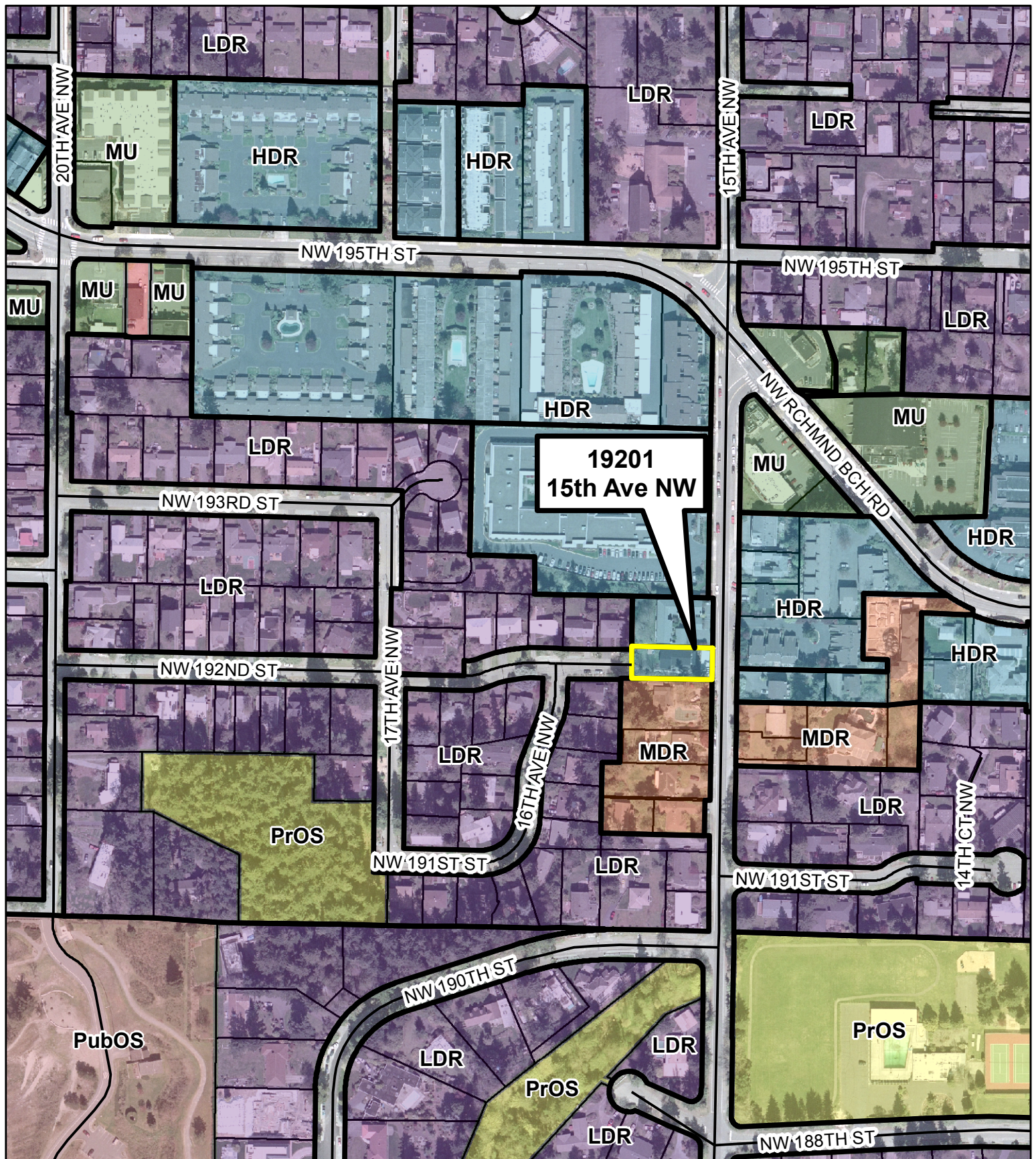
Legend

	CB - Community Business		R24 - Residential 24 units/Acre		Zone District Boundary
	CZ - Contract Zone		R4 - Residential 4 units/Acre		Parcel Line
	I - Industrial		R48 - Residential 48 units/Acre		Street
	NB - Neighborhood Business		R6 - Residential 6 units/Acre		
	NCBD - North City Business District		R8 - Residential 8 units/Acre		
	O - Office		RB - Regional Business		
	R12 - Residential 12 units/Acre		RB-CZ - Regional Business/Contract Zone		
	R18 - Residential 18 units/Acre				



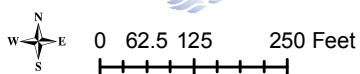
No Warranties of any sort, including accuracy, fitness, or merchantability accompany this product.

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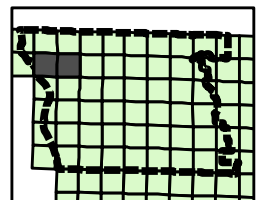
Geographic Information System
City of Shoreline Zoning



Legend

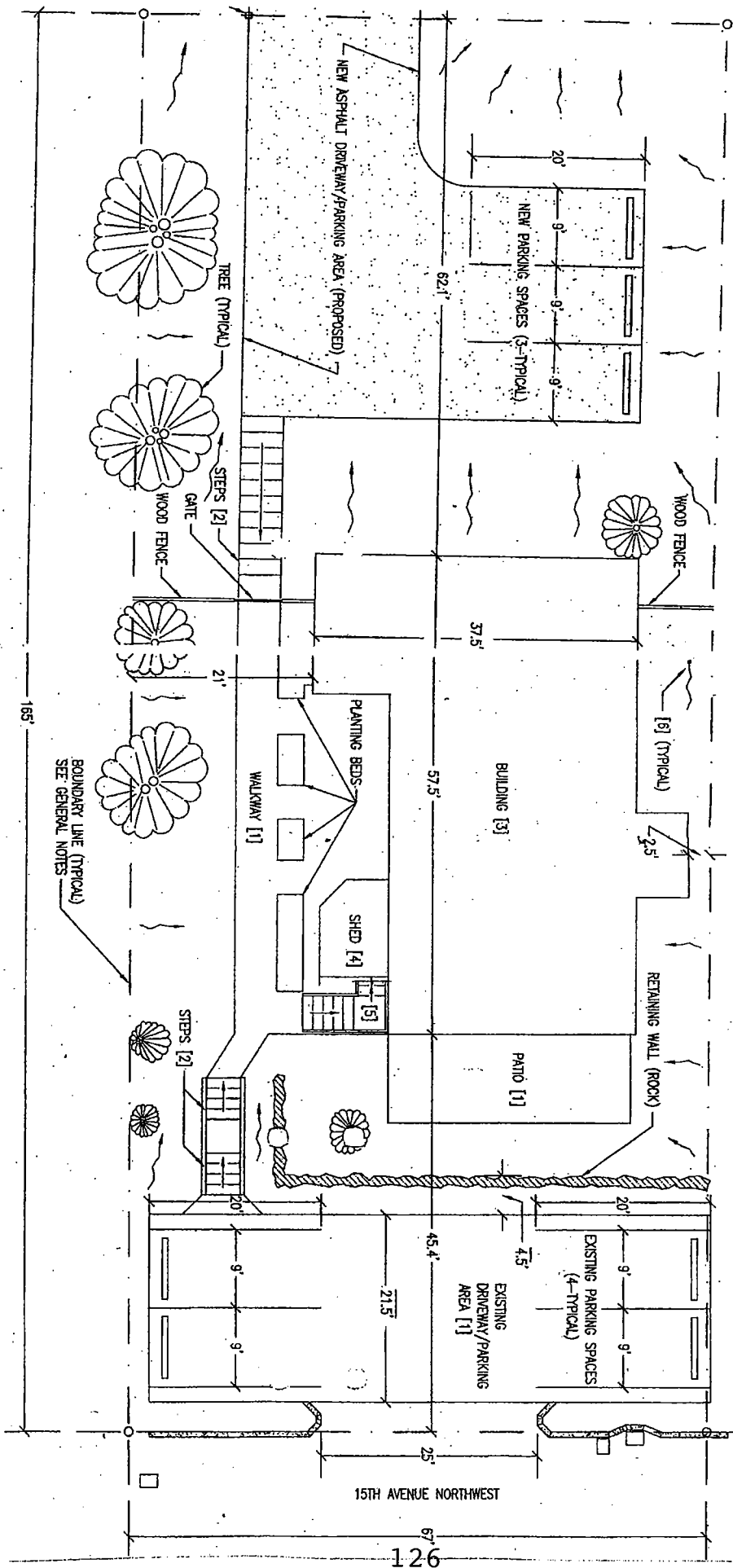
- | | |
|----------------------------|-------------------------------|
| Low Density Residential | Special Study Area |
| Medium Density Residential | Ballinger Special Study Area |
| High Density Residential | Briarcrest Special Study Area |
| Mixed Use | North City Business District |
| Community Business | Paramount Special Study Area |
| Regional Business | Private Open Space |
| Public Facilities | Public Open Space |
| Single Family Institution | |

- Comprehensive Land Use Boundaries
 Parcel Line
 Street



No Warranties of any sort, including accuracy, fitness, or merchantability accompany this product.

Created on 4-17-06



Name	Comment
Heidi Lui	A form letter was circulated throughout the neighborhood and made mention of traffic and safety issues on NW192nd Street, drainage and slope impacts and how the proposed rezone does not meet zoning criteria.
Frank and Jennifer Kleyn	Signed Form Letter
Dorothy Austad	Signed Form Letter
Shannon Clark	Signed Form Letter
Frank Tarver	Signed Form Letter
Robert Roberts	Signed Form Letter
Margo and Charles Smith	Signed Form Letter
Jonathan and Mindy Danylak	Signed Form Letter
Pamela Ness	Signed Form Letter
Kathy Brown	Signed Form Letter
Burt and Hattie Kamps	Signed Form Letter
Mie Hae Rhie	Signed Form Letter
John Paulman	Signed Form Letter
Hans Nelson	Signed Form Letter
David Fagan	Signed Form Letter
Sam Fish	Signed Form Letter
Davis Steinmetz	Signed Form Letter
Charles Nick	Signed Form Letter
Bill and Kathy Kriner	Signed Form Letter
Tomas and Michelle Petersen	Signed Form Letter
Al Lebar	Signed Form Letter
Travis and Amy Pitts	Signed Form Letter
Matt Starbard	Signed Form Letter
Max Spiro	Signed Form Letter
Susan Sifferman	Signed Form Letter
Michele and Paul Hubbard	Signed Form Letter
Jim and Karen Marshall	Signed Form Letter
Patty Holmquist	Signed Form Letter
Julie and Roy Jensen	Signed Form Letter
Michael Milne	Signed Form Letter
Eric and Jill Dobson	Signed Form Letter
James Gates	Called the City staff "brain dead"
Bob and Julia Haggarty	Signed Form Letter
Bettie Round	Signed Form Letter
Cory Olson	Signed Form Letter
Viola Gay	Signed Form Letter
Mark Ryan	Signed Form Letter
Gabrielle Carmarthen (sp?)	Signed Form Letter
James and Debora Peterson	Signed Form Letter
Brian and Kerry Petit	Signed Form Letter
Debra Peterson, Marion	Comments regarding SEPA checklist: Building should

19201 15th Avenue NW

4/13/76 year building constructed by Gogert & Sons (according to KC records). Built as a duplex. Large unit on second floor with smaller unit and 2 garages on the lower floor. Between garages and lower unit was a storage and utility area. Access was off of 15th Ave NW down a driveway and into the garage spaces.

Review of the historical zoning maps of the property shows that the property has always been zoned to allow for only 3 dwellings or less.

- King County zoned the property RD 3600 (one dwelling unit per 3600 sq. ft. = 3.0 dwelling units) from 1968 - February 2, 1995.
- *King County changed the zoning designation of the property R-12 in the zoning atlas dated February 2, 1995 (residential 12 dwelling units per acre).*
- *We did not change the zoning after incorporation. The zoning map adopted soon after the City incorporated continued the classification of the property as R-12 (residential 12 dwelling units per acre).*
- *This parcel is currently zoned R-12. The lot size 11,020 sq ft. Total allowed units are 3.04 or 3. The legal number of units on this parcel has been 3 since the building was constructed in 1976.*

11/29/84 date KC received permit application to convert duplex to triplex. Permit # 92314 issued on 01/30/85. Large second floor unit divided into 2 separate units. Lower floor remained the same (smaller unit, 2 garages and storage and utility area). Property owner: John Rock.

Date not known – property sold to Thomas & Erin Johnson.

1/27/2000 City received complaint. Issued STOP WORK order for work without a permit. Work observed included the conversion of the garage to a dwelling unit + rockery had been constructed without permits.

2/29/2000 Building Permit # 2000-0214 issued. There is not a complete record on why the City was allowing a 4th unit.

4/28/2000 SECOND stop work order posted for construction of parking area adjacent to 15th Ave NW.

12/6/2000 RoW permit # 2000-001593 issued for FRONT parking area adjacent to 15th Ave NW. Final inspection and approval 4/7/03.

3/1/2001 Building Permit # 2000-0214 EXPIRED. Permit expired w/o having been finalized or renewed. Anecdotal information reported that Mr. Johnson let the permit expire w/o inspections because he “balked” at the expense to construct a paved parking area at the rear of the property.

1/3/2002 **Richard and Pamela Burt purchased the property.**

8/11/2003 City CRT received complaint – parking at rear of property on pervious surface and possible illegal home occupation. 9/3/2003 complaints expanded the complaint to include the illegal 4th unit (& why the city had never followed-through on their previous complaint).

1/4/2004 1st day of work for new Code Enforcement Officer, Kristie Anderson

6/1/2004 neighbors behind apt building filed complaints with Customer Response Team: (1) vehicles parking on grass behind building; (2) removal of chain across the end of the RoW where 192nd dead ends; (3) illegal home occupation; (4) illegal number of units and (5) work done without permit.

7/6/04 received letter signed by 5 households addressed off of NW 192nd street. Issues: WWOP, lack of required pkg, home occupation, req replacement of guardrail.

7/8/2004 issue referred from CRT to code enforcement – case 1195 initiated.

Complaint research indicated:

1. Vehicles were being parked in the rear yard of the building in violation of the Development Code.
2. The City traffic and PW department did not object to the removal of the chain where 192nd dead ends (not our chain). In addition the City's traffic engineer would not recommend that a barrier of any kind be established there.
3. I could not find any corroborating evidence of a home occupation. One of the apartment dwellers brought a work truck home and the vehicle was not oversized.
4. There appeared to be not just 1 but 2 illegal units. And
5. Work had been done without a permit. In addition, the previous WWOP case had been closed when the previous owner and made application for a permit. Note: the work without permit and the garage conversion are very different issues. The garage conversion to habitable space needed to be legalized by acquiring a permit and getting all required inspections and approvals. HOWEVER, the habitable space is prohibited from being a separate dwelling unit under the R-12 zoning. He could have a recreation room, or a very large lower unit, or reconvert the upstairs to a large unit and have 2 smaller lower floor units, etc. It just could not be a 4th separate dwelling unit. Research also indicated that the utility room that had been between the lower unit and the garages had been moved. The water heaters were not located in a new building attached to the north wall of the primary structure and an area between the 2 upper floor units had been converted to a laundry room. This work was not shown on the permit approved in 2000 and the previous inspectors did not mention that.

7/22/04 Telephone conversation w/ Pam Burt, wife of owner. Discussed items in complaint. Met Richard Burt at property on 8/4/04. He stated structure was 4-plex when he bought it. We looked at shed attached to the south side of building; he admitted that he added it. We discussed the need locate required parking in rear of lot, we discussed requirement for permit for rockery at front and other issues.

9/22/2004 No action by Mr. Burt to correct violations. He stated he bought it that way and should be allowed to keep it that way. **1st Notice & Order issued.** Violations noted were: 2

illegal units, illegal conversion of garage to habitable space, 2 illegal storage areas, illegal retaining wall, removal of required off-street parking, and need to establish new on-site required parking spaces. Copies sent to complainants.

Sept or Oct, 2004 Mr. Burt, owner of property, protested to Director Tim Stewart and argued that 4th unit had been permitted/allowed under to 2000 building permit and City should "stick" by that determination. Director, Tim Stewart, reviewed the case; he determined that there was insufficient evidence to prove the 2000 permit was issued in error.

10/19/20004 2nd aka **AMENDED Notice & Order** issued requiring 5th unit to be removed and allowing 4th unit IF all *current* development code design standards could be met.

The City provided (free of charge) drawings approved for Building Permit # 2000-0214 that had been initially submitted by Mr. Thomas Johnson to legalize the 4th unit and cure the 2000 Stop Work Order. The City also provided the drawings for the right of way permit (old # 106790) required for the rear parking area access

11/9/2004 Meeting w/ Jeff Curtis, Paul Cohen, Kristie Anderson, + Mr. & Ms. Burt.
* Jeff outlined what he needed in for plan review, including specifying that the old plans need to be review for compliance w/ 2003 IBC.
* Paul C. discussed design criteria. Paul calculated design req. & informed the Burts that they could meet the parking and lot coverage requirements so their project could go forward.
* Kristie indicated the Dec 1, 2004 compliance date still remained UNLESS I received a letter from a design professional that stated that their workload did not permit the completion of their part of the application package.

11/24/2004 revised plans submitted by Mr. Burt. Paid \$244 in fees for permit 106790 remodel permit. Application for permit 106790 - CONVERT GARAGE TO 1 DWELLING UNIT, ADD LAUNDRY ROOM, BUILD WATER HEATER ENCLOSURE, INSTALL BATHROOM & KITCHEN FANS, INSTALL 4-5 FOOT ROCKERY & ASPHALT PARKING AREA W/ ONSITE DETENTION SYSTEM.

12/27/2004 remodel permit 106790 ready to be issued. Fees owing of \$858. Permit never picked up – application has technically expired.

12/30/2004 received e-mail from Marion O'Brien "requesting information on the process to appeal the city's decision to allow 4 units. What is the process we need to follow?"

1/2/2004 sent e-mail to Marian O'Brian in response to her e-mail of 12/30/04 "Building permits, site development permits and clearing & grading permits are all examples of Type A actions. Type A actions are classified as ministerial decisions. The Director makes these types of decisions and the decisions are final. An administrative appeal process is not provided for Type A actions. You can read the details of the above statements in SMC 20.30.040."

Complainants hired a Land Use attorney, Melody McCutcheon. On 1/5/05 she sent a letter to Director, Tim Stewart stating:

- for structure to be nonconforming it must have been legally established prior to date of regulations that rendered it nonconforming. (SMC 20.30.280(A)).
- The mere existence of 4th unit is not same as having been "legally established". 4th unit could only have been "legally established" if a permit was issued by some jurisdiction.
- City's file shows the only issued permit for this structure is to convert from a duplex to tri-plex (KC records 1985). Therefore, 4th unit not legally established and cannot be considered nonconforming use under the City's code.

Attorney requested City reconsider determination and reinstate original Notice that there are two unauthorized dwelling units.

1/7/2005 Tim Stewart met w/ complaints and followed up with a letter on the same afternoon. The letter had 6 specific items Tim responded to, below are his responses to the rear parking area & the 4th unit.

- "The work for which permit #106790 covers (conversion of garage into living space, construction of a parking area in the rear of the building, installation of a rockery) is allowable under the Code regardless of whether the building contains three or four units."
- "Regarding the status of the fourth unit, we do not feel there is sufficient evidence to prosecute the property owner to remove the fourth unit at this time. It is important to note that this does not mean the City is permitting the fourth unit, we are just not taking prosecutorial action. The City's code enforcement program is based on a list of priorities adopted by Council. Violations of a Stop Work order are an urgent level priority. Therefore, achieving compliance for the work that was done without a permit was our top priority. Land Use Violations with minimal impact are categorized as being a routine (non hazardous) priority. With only one code enforcement officer, we typically work through the Urgent cases first and devote time to the lower priorities when we have responded to all Urgent cases."

3/7/2005 mtg w/ Ian Siever & Flannary Collins (Law Dept) & Tim Stewart (Dir PADS). Decision to allow 4th unit if design standards are met is reversed. Permit will not be issued for 4th unit. I am to issue (2nd) Amended N&O requiring bldg be restored to triplex. New compliance date - April 30, 2005.

3/9/2005 Doug VanGelder, design review engineer, approved right-of-way permit (107181) for RoW access to the proposed rear parking area.. \$496 owing.

3/31/2005 – 5/4/2005 correspondence to & from attorney hired by the Burts (Dean Messmer). City Att office also extended compliance date w/o setting new date.

5/20/2005 letter from City Att office to Burt's attorney. Set new compliance date of June 6, 2005.

6/10/2005 staff memo to CITY COUNCIL. City proposed to waive *permit fees* for restoring structure to tri-plex. Rezone was mentioned but stated that the Burts would need to apply and pay fees. Compliance date moved to July 8, 2005.

6/14/2005 somewhere between 6/9/05 and 6/14/05 was the 1st mention of City Council initiating the rezone. Also sometime in this time period CMO's office (not sure if Steve Burkett or Bob Olander) requested PADS try to "work this out".

8/24/2005 letter from PADS Rachael Markle to Burts and complainants requesting attendance at a meeting w/ city to assess whether resolution can be achieved.

9/27/2005 date of letter from city Attn office setting meeting for Oct. 3, 2005.

10/3/2005 meeting held to see if parties could resolve issues and cure violation. From City - Flannary (Law)& Rachael (PADS). (I do not know who attended meeting other than City staff).

11/17/2005 follow-up letter from Oct 3 meeting sent. Letter jointly sent from City Law & PADS. New compliance date of 12/19/05 set for Burt's to submit revised plans for rezone process.

1/23/2006 meeting w/ Joe Tovar (new PADS Dir), Paul Cohen, Kim Lehmberg, Flannary Collins & Kristie Anderson to discuss past history & outstanding issues.

2/23/2006 date of letter from Joe Tovar to the Burts with request that Burts contact him by March 10, 2006 to indicate how they intended to proceed.

3/8/2006 meeting w/ Joe Tovar, Dir / Kristie, CEO / Flannary, Law / and Mr & Ms. Burt. City proposed to initiate and pay costs associated with rezone application BUT Burts responsible for all building permit fees. (NOTE: Reversal from 6/10/2005) In addition, City would still honor (expired) applications submitted in 2004 and City would credit the Burts w/ fees already paid.

3/14/2006 received letter from Burts requesting city proceed w/ rezone and agreeing to bring property in compliance w/ codes.

3/23/2006 sent letter from Director to Burts detailing who responsible for each action to bring property into compliance. And attached requirements for site plan copied from handout.

3/31/2006 Mr. Burt delivered 2 copies of site drawings.

7/6/06 PC Public Hearing For Rezone # 201518

June 16, 2006

Richard and Pamela Burt
32101B-76th Ave. NW
Stanwood, WA 98292

Joe Tovar
C/o City of Shoreline
17544 Midvale Ave. N., Ste. 100
Shoreline, WA 98133

To Whom It May Concern:

Re: Four-plex at 19201-15th Ave NW

As owners of the property of concern we want to make a statement of our intentions and desires.

Our ideal situation is to have our building function quietly as it has been (with maybe 1 or 2 exceptions) over the last 20yrs. 1) All parking on the east side of our building (15th NW side). 2) As four units. Nothing more or less.

Due to all that has happened we have had to look at what our options are if changes are forced as income is our reason for having the property. We see our options as listed:

- 1) Put the property on the market, we get inquiries regularly.
- 2) Sell easement to one of the neighboring properties
- 3) Put a parking lot in the back to make nicer use of the front

As stated above none of these options are our first choice.

We would also like to make note of the fact that one of the complainants to the west of us has a renter who uses the roads below and another one has access to her backyard via a secondary entrance yet they want to stop us from doing this very thing. It seems a bit hypocritical. One last note, if the neighbors have been so concerned about what is now our property, why did they not go together and buy it instead of trying to dictate how we can use the property which we maintain and pay taxes for???

Sincerely,



Richard and Pamela Burt

DRAFT

These Minutes Subject to
August 3rd Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

July 6, 2006
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

COMMISSIONERS PRESENT

Chair Piro
Vice Chair Kuboi (left at 8:30 p.m.)
Commissioner Hall
Commissioner Harris
Commissioner McClelland
Commissioner Phisuthikul
Commissioner Wagner
Commissioner Pyle

STAFF PRESENT

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

COMMISSIONERS ABSENT

Commissioner Broili

CALL TO ORDER

Chair Piro called the regular meeting of the Shoreline Planning Commission to order at 7:03 p.m.

ROLL CALL

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

APPROVAL OF AGENDA

Item 4 (Director's Report) was moved to Item 10 (Unfinished Business).

APPROVAL OF MINUTES

The minutes of June 15, 2006 were approved as submitted.

GENERAL PUBLIC COMMENT

No one in the audience expressed a desire to address the Commission during this portion of the meeting.

PUBLIC HEARING ON BURT SITE-SPECIFIC REZONE #201518 FOR PROPERTY LOCATED AT 19201 - 15TH AVENUE NORTHWEST

Chair Piro reviewed the rules and procedures for the quasi-judicial public hearing. He also reviewed the Appearance of Fairness Rules and inquired if any Commissioners received comments regarding the subject of the hearing from anyone outside of the hearing. Commissioner Pyle disclosed that during prior employment with the City of Shoreline he heard information about the subject property. However, he does not believe the information would affect his decision making nor did he form an opinion on the proposal as a result of this information. Commissioner Hall pointed out that because the City is the project proponent, the City staff mailed the applications to the Commissioners. However, none of the Commissioners communicated with the staff regarding the subject of the hearing prior to the hearing. None of the other Commissioners disclosed ex-parte communications, and no one in the audience expressed a concern about the participation of any Commissioner, either.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Szafran advised that the application before the Commission is regarding Rezone #201518 for property located at 19201 – 15th Avenue Northwest. He pointed out that the Comprehensive Plan identifies the subject property and adjacent properties to the north and east as high-density residential, and they have been developed as multi-family residential. Properties to the south and southeast have been designated as medium-density residential, which allows up to an R-12 zoning, and the property to the south is currently developed as a single-family home. The parcels to the west have been designated as low-density residential and are developed with low-density single-family homes. The zoning in the immediate area is a mixture of R-6, R-8, R-12, R-18, R-24 and Neighborhood Business. Mr. Szafran provided photographs of the existing development surrounding the subject parcel.

Mr. Szafran advised that the existing fourplex on the subject property would remain unchanged. The parcel slopes from east to west and has a severe incline towards the middle of the property. The western portion of the property is undeveloped, and there is a public street that dead ends into the western portion of the site. Currently, the property owner has an approved right-of-way permit to pave the rest of the street leading onto the parcel and to construct a 5-space parking area. He noted that one of staff's proposed conditions of the zone change would eliminate potential vehicular access to Northwest 192nd Street by tenants of any properties accessing from 15th Avenue Northwest. Access to the subject property currently comes from 15th Avenue Northwest, which is a collector arterial that is close to Richmond Beach Road (a minor arterial). There are currently four parking spaces on the site, and on-street parking is also available along 15th Avenue Northwest.

Mr. Szafran said staff finds that, with the recommend conditions, the proposal would meet several of the goals and policies of the Comprehensive Plan by:

- Accommodating varying types of housing styles.
- Using site and building regulations to create effective transitions between the subject property and properties to the west.
- Matching the densities that exist to the north and east.
- Being consistent with the High-Density Residential Comprehensive Plan designation for the parcel, which would support up to R-48 zoning.
- Improving the safety and traffic of the neighborhood to the west of the subject parcel with the imposed conditions.

Mr. Szafran pointed out that if the zone change is approved with the staff recommended conditions, the site would come into conformance with density standards, and any outstanding building violations could be corrected. In addition, the residential neighborhood to the west would be protected from a potential increase of vehicular traffic and drainage problems. If the zone change is denied, the owner would be allowed to build a parking lot on the west side of the parcel and have access to Northwest 192nd Street.

Mr. Szafran said that, based on the facts and analysis listed in the Staff Report, staff's preliminarily recommends approval of the rezone to R-18 with the following conditions:

- Limit the number of units to four.
- Record a legal document in a form acceptable to the City Attorney that would eliminate the potential vehicular access to Northwest 192nd Street by tenants of any properties accessing from 15th Avenue Northwest.

Applicant Testimony

Richard Burt, Stanwood, advised that he and his wife are the owners of the subject property, but the applicant for the proposed rezone is actually the City of Shoreline. He reviewed that he and his wife purchased the property as a functioning 5-unit complex. When he heard that the previous owner had a problem with the neighbors, he invited the neighbors to contact him regarding their concerns. He learned from neighbors that one tenant was parking a large truck in the back yard, even after he asked him not to. The neighbors contacted the City regarding a solution to this problem, and after further review, the City determined that 2 of the units on the site were constructed illegally. In working with the City, he said he agreed to eliminate one of the units. He emphasized that although the Staff Report indicates that he and his wife did illegal work on the structure that is not the case. They have never made any changes to the building. When they agreed to eliminate the 5th unit, they turned in plans to do some of the things the City asked them to. However, these plans were never approved by the City, and Mr. Tovar has been helping them resolve the problem.

Mr. Burt said he never wanted to construct a parking lot in the back. This was a City requirement that upset the neighbors. His only desire is that his property be allowed to continue as a 4-unit complex. However, he emphasized that none of his property rights should be taken away because of neighborhood complaints. He pointed out that one of the neighbors behind his property has a mother-in-law apartment, and her renters drive on Northwest 192nd Street. The owner across the street has access to her backyard

from another City street. He summarized that the surrounding property owners want to take away his property rights, which are the same ones they enjoy now. He noted that if the zoning in the area were changed in the future to allow a larger building, some of his property value would be lost if access was prohibited from Northwest 192nd Street.

Questions by the Commission to Staff

Commissioner Wagner asked about the City's current parking requirement for the site. Mr. Szafran explained that a 4-unit residential complex would require seven parking spaces. Given the current configuration of the site, the rear portion of the lot would be the easiest place to provide this parking space. Commissioner Wagner pointed out that the current zoning designation would only allow 3 units. Therefore, the City's previous requirement that the property owner provide parking behind the building was intended to address the parking requirement for the 2 illegal units. Mr. Burt said that in order to address the neighborhood's concern, the City is now proposing to eliminate the requirement to provide parking in the back. Mr. Szafran clarified that 5 parking spaces would be required for a 3-unit complex, and the site only provides 4 on-site spaces.

Chair Piro pointed out that staff did not propose any condition that would require the property owner to increase the number of on-site parking spaces to 7. Mr. Szafran explained that the Development Code allows the Director to waive up to 50% of the on-site parking requirement. Commissioner Pyle asked if the Director's decision to waive some of the parking requirement was related to the site's close proximity to transit opportunities. Mr. Szafran answered affirmatively.

Public Testimony or Comment

Bill Kuhn, Shoreline, said he has lived in the area of the subject property for the past 35 years. He drew the Commission's attention to the picture of Page 33 of the Staff Report. He noted that Northwest 192nd Street is a narrow, one-lane road where it crosses 17th Avenue Northwest. This road continues on to abut the subject property. He explained that when Shoreline was under King County's jurisdiction, there was a metal barrier across this roadway, but the barrier was removed around 2000 in an aborted attempt by the previous owner of the subject property to put in a parking lot. While the parking lot proposal was stopped, the steel barrier preventing access to the subject property was not reinstalled. He said he is not convinced of the City's position that Mr. Burt has access rights to his property from Northwest 192nd Street, and he urged the Commission to investigate the situation further.

Mr. Kuhn referred to a letter written by Mr. Burt (Page 67 of the Staff Report), in which Mr. Burt said his ideal situation would be to have the building function as it has for the past 20 years, with parking on the east side and four units. While this is actually what the City is requesting, they have added an addendum to require there be no parking along Northwest 192nd Street by any tenant living in any of the buildings along 15th Avenue Northwest. Also in his letter, Mr. Burt said the reason he purchased the property was for income, and one way to increase his income would be to sell an easement through his property to the neighboring properties to the north and south. Mr. Burt said he could also put a parking lot in the back to make his property nicer out front. Mr. Kuhn agreed that Mr. Burt could certainly put a

parking lot in the back but he should provide access to it from the south side of his property rather than from Northwest 192nd Street.

Next, Mr. Kuhn drew the Commission's attention to Conditional Use Permit #1999-00867, which is relative to the property at 19137 – 15th Avenue Northwest, which is two parcels to the south of Mr. Burt's property. This parcel, together with the property immediately contiguous to Mr. Burt's parcel is owned by Mr. Friedman. In the conditional use permit application, Mr. Friedman was seeking to justify some illegal construction that had occurred. One of his requests was to access his property through the end of the street at Northwest 192nd Street. When the conditional use permit was reviewed by the Planning Commission and Planning Department Staff, it was recognized that the property had a potential for even higher density if brought into full compliance with the Comprehensive Plan. However, it was pointed out that the proposal would create similar traffic impacts as other medium-density developments. Therefore, vehicular access should be provided from the arterial, and not the residential street. Mr. Kuhn indicated that he did not have enough time to share his final point with the Commission.

Commissioner McClelland asked Mr. Kuhn to clarify if the properties to the south of the subject properties are owned by the same person. Mr. Kuhn answered affirmatively.

Commissioner Harris asked Mr. Kuhn to share his last point with the Commission, as well. Mr. Kuhn said he does not believe the proposed staff conditions make sense. He asserted that Mr. Burt has a history of parking his work trucks in the back yard. While Mr. Burt could certainly develop a parking area on the back portion of his property, it would not be appropriate for the access to come from the narrow Northwest 192nd Street. He reminded the Commission that when they reviewed the conditional use permit application in 1999, they agreed they did not want to do anything to impact the nature of this single-family residential neighborhood.

Diane Bowers, Shoreline, said she has lived in the subject neighborhood for the past 29 years. She came to Richmond Beach because of good schools for her children and a quiet neighborhood. The neighborhood has remained quiet and secluded because the street goes nowhere. Her children have grown up and new children have moved in, and she feels a special sense of community. However, this is all being threatened by the potential of opening the dead end of Northwest 192nd Street to create a parking lot for an apartment building that faces onto 15th Avenue Northwest. She pointed out that the subject property had its own parking access from 15th Avenue Northwest, but that space was replaced when two illegal dwelling units were added to the building. She pointed out that parking to the rear of the building could still be accessed from 15th Avenue Northwest if the property owner removed the wall that was built to prevent that from happening.

Ms. Bowers pointed out that the owner does not live in the community and his only interest in the community is the financial benefit he reaps from the building. Now he is proposing that the traffic to this parking lot and potentially other parking lots come down 17th Avenue Northwest and Northwest 192nd Street. Both of these streets are one-lane roads, with a blind intersection. She referred to Mr. Burt's letter stating his plans to sell access from the parking lot to at least one neighbor of his building on 15th Avenue Northwest. The owner of the adjacent property would likely build a parking lot, as well.

Ms. Bowers advised that Mr. Burt threatened this action, plus the sale of access to a second neighbor, when she and Mrs. Petersen spoke to him a few weeks. She said it is inconceivable to her that the Planning Commission would allow this to take place. In addition to narrow roads and blind corners, small children and elderly people use these roads, which have no sidewalks. If the City must rezone the property in spite of the fact that he has violated the law and ignored the demands of the City to remove the illegal units in the building, she asked that parking be required to stay on 15th Avenue Northwest. Northwest 192nd Street has always been a narrow residential dead end road, and the City should make sure it stays that way into perpetuity. She thanked the City staff for making this a condition of the rezone.

Marion O'Brien, Shoreline, reviewed the Development Code criteria that must be considered when reviewing rezone applications as follows:

- *Criteria 1: The rezone is consistent with the Comprehensive Plan.* The two staff recommended conditions are necessary in order for the rezone proposal to be consistent with the Comprehensive Plan.
- *Criteria 2: The rezone will not adversely affect the public health, safety or general welfare.* The proposed conditions would ensure the effective transition between the uses and density and prevent adverse impacts on public health, safety and welfare. Bringing additional traffic down Northwest 192nd Street would be reckless and foolish. On the other hand, 15th Avenue Northwest is a collector arterial and access to the subject property is correctly oriented towards it.
- *Criteria 3: The rezone is warranted in order to achieve consistency with the Comprehensive Plan.* Increased traffic is a recognized development problem, and many cities with more experience dealing with density issues do not allow access to multi-family residential developments through single-family residential zones.
- *Criteria 4: The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone.* Lengthy history shows that complaints about the property began when construction started, thus proving that the four units have caused a great deal of impact. The original complaints did not come from residents on Northwest 192nd Street. Instead, they came from people on 15th Avenue Northwest. A parking lot at the end of the street, with access for at least one apartment building, would change the character of the neighborhood, decrease property values and diminish the quality of life they enjoy living on a dead end street.
- *Criteria 5: The rezone has merit and value for the community.* The Commission should keep in mind that the rezone must have merit to the community and not for just one individual. She disagreed with the staff's analysis that there would be no additional impact because the use already exists. She emphasized that the use does not legally exist, and complaints began when the construction started.

Ms. O'Brien pointed out that throughout the Staff Report, the apartment building is described as non-conforming and an existing fourplex. The Shoreline Municipal Development Code says that a use or activity is non-conforming if it was lawful prior to the adoption, revision or amendment of the Code but fails to conform to the present requirements of the zoning district. Therefore, describing the building as a non-conforming fourplex is incorrect and misleading. The building is an illegal triplex, with a fourth unit. Calling it anything else gives it validity.

Commissioner Pyle asked if on-street parking is allowed on Northwest 192nd Street. Ms. O'Brien answered that the paved area is very narrow and the shoulders are unpaved. People occasionally park on the unpaved shoulders and in the driveways. Commissioner Pyle asked if people who do not reside on the street would be prohibited from parking on the unpaved shoulders. Ms. O'Brien answered that the street is a public right-of-way, and there are no signs to prohibit parking. Ms. O'Brien emphasized that she supports the staff's recommendation as presented to the Commission.

Shannon Clark, Shoreline, said she spoke before the City Council last summer about this matter, and most of the neighbors are present because of the parking issue. They purchased homes on a dead end road, which is a narrow street. She expressed her belief that the likelihood of a vehicular or pedestrian accident would increase with more street traffic. Since there are a large number of children living in the area, this should be of utmost concern. She noted that a section of Northwest 192nd Street also lacks visibility due to substandard right-of-way width, and possible increased flooding in surrounding areas is also a concern since the neighborhood lies in a depressed area. Storms in 2003 and 2004 flooded parts of two homes. She said that she knows the City of Shoreline values the opinions and concerns of all property owners and residents, and she urged the Commissioners to drive the route necessary to reach the backyard of the Burt property on 15th Avenue Northwest to get a clear view of the neighborhood concerns about the proposed parking lot. She concluded by expressing her appreciation to City staff for being pro-active in helping with the issue.

Erik Dobson, Shoreline, said that over the past year he has seen the densities in both Seattle and Shoreline increase very rapidly. While this is good in many ways, it is also important that the single-family residential zones be preserved. The Commission now has an opportunity to stress the importance of preserving the single-family homes. The City was generous to give Mr. Burt the option of rezoning to R-18. Even though he did not own the property when the fourth unit was built, he assumed all responsibility when he purchased the property. Now he is responsible for making sure the property meets the code requirements. He said he does not think it is necessary to allow Mr. Burt to add a parking lot with access from Northwest 192nd Street. A driveway along the south side of the subject property could provide access to a parking lot on the rear portion of the lot. This would preserve Mr. Burt's property rights, but would also prevent access from a single-family residential street.

Tom Petersen, Shoreline, voiced his support for the staff's recommendation to approve the proposed rezone with conditions. He agreed with previous speakers that a driveway along the south side of the property would be easily possible. The steep slope that Mr. Burt referred to is the result of a landscaping job that was done about 10 years ago. It is a gentle slope that would not present a problem. Mr. Petersen said the Staff Report talks a lot about closing the end of Northwest 192nd Street, and he asked that this be reworded to restrict all vehicular access rather than just most vehicular access. He asked that the condition also close the street and not allow any driveways along back fences to other properties on 15th Avenue Northwest.

Mr. Petersen referred to Mr. Burt's presentation and pointed out that the encroaching vegetation along Northwest 192nd Street is not an issue. While it looks like the bushes come out onto the road, it is important to note that the road is only one lane wide. Mr. Peterson also referred to Mr. Burt's comment

about one property owner who had a mother-in-law rental. That structure is actually a privacy unit for an elderly resident of the home and not a rental.

Viola Gay, Shoreline, said she has lived in her home on Northwest 192nd Street for the past 15 years. She said it is important for the Commission to recognize the large number of small children that live along this street so safety is the most critical issue to consider. Changing the zoning on the subject property to R-18 would require the people living in the R-6 zone to suffer the consequences. If the rezone is approved, she questioned what would prevent Mr. Burt from requesting a fifth or sixth unit. Also, adjacent property owners might decide to request rezones for their properties, as well. Again, she pointed out that there are a number of young children living in the area, and allowing more traffic onto Northwest 192nd Street would be dangerous. The neighbors do not intend to deny Mr. Burt of an opportunity to use his property, but they do not want his tenants accessing the property through the narrow street.

Presentation of Final Staff Recommendation

Mr. Szafran said staff's final recommendation would be to approve the rezone to R-18 for property at 19201 - 15th Avenue Northwest with the following conditions:

- Limit the number of units to four.
- Record a legal document in a form acceptable to the City Attorney that would eliminate potential vehicular access to Northwest 192nd Street by tenants of any properties accessing from 15th Avenue Northwest.

Mr. Szafran said another option would be to eliminate all potential vehicular access, except maintenance and emergency vehicles on Northwest 192nd Street.

Final Questions by the Commission and Commission Deliberation

Commissioner Pyle observed that parking and access from Northwest 192nd Street to the west seems to be a major issue. He asked what would prohibit someone from parking on Northwest 192nd Street to access the subject property. If the tenants cannot park along 15th Avenue Northwest within a reasonable walking distance to the subject property, they will likely start parking on Northwest 192nd Street to access the property by foot. Mr. Szafran agreed that nothing would prevent the tenants of the subject property from parking on Northwest 192nd Street. He also noted that there is some on-street parking available along 15th Avenue Northwest.

Commissioner Pyle inquired if some type of separation treatment would be required between a higher density and lower density zone. He asked if this same treatment could be applied along the back side of the property in conjunction with some type of barrier prohibiting access to the property. Mr. Tovar answered that the City's current code does not have standards to articulate what happens in the circumstance of a higher density zone next to a lower density zone. This rezone application represents the City's attempt to impose conditions that would travel with the rezone. The Commission can recommend whatever conditions they feel are appropriate to create the separation.

Chair Piro said he visited the subject property prior to the meeting. He asked staff to clarify the location of the four units within the structure. He also asked how many of the units have access from the 15th Avenue Northwest side of the building as opposed to Northwest 192nd Street. Mr. Szafran answered that all of the units are accessed from the 15th Avenue Northwest side of the street.

Commissioner McClelland asked how the City would make sure the fifth unit is not used in the future. Mr. Szafran answered that, currently, there is not a fifth unit in the building. The proposed condition would preclude any additional units on the property. Mr. Tovar explained that if the rezone is approved, the applicant would be compelled to apply for a building and electrical permit, which would involve a City inspection to make sure the doors, location of utilities, etc. are designed to only serve four units. However, as a practical matter, it is important to keep in mind that property owners make improvements without permits, and the City is not aware of the situation until someone points it out to them.

Commissioner McClelland concluded that the neighbors appear to be in support of the proposed rezone to R-18 in exchange for restrictive parking on Northwest 192nd Street. Mr. Tovar said he believes the most significant issue for the neighbors to the west is the prospect of additional vehicular traffic on Northwest 192nd Street, and the best way to preclude this would be to place a limiting condition on the rezone. While the property owners in the area would not gain from having a fourth unit on the subject property, the proposed rezone would limit future traffic on Northwest 192nd Street.

Commissioner Hall asked if a permit was ever approved for the conversion of the garage into living space. Mr. Szafran said the building permit for this conversion expired without having a final review. Commissioner Hall referred to Page 50 of the Staff Report which states that work had been done without a permit. In addition, the previous "work without a permit" case had been closed when the previous owner had made application for a permit. He summarized that because the code enforcement case was closed and the permit was never issued, the same violation that existed at the time of the original stop work order still persists.

Commissioner Phisuthikul referred to Page 49 of the Staff Report which states that on February 29, 2000 a building permit was issued. The scope of work under the permit included the conversion of the garage into a dwelling unit. Since the property was zoned as a duplex, he asked if the creation of the additional unit was legal. Mr. Tovar answered affirmatively, but emphasized that the permit expired without being finalized or renewed.

Commissioner Wagner said she drove by the subject property and noted that there were two cars parked on site and an additional car parked on the shoulder of 15th Avenue Northwest. She inquired if it is legal for cars to park on the shoulder. Mr. Szafran clarified that parking is allowed along the shoulder of 15th Avenue Northwest. Commissioner Wagner pointed out that, technically, two cars could be accommodated on the subject property, with three additional spaces available in the right-of-way.

Commissioner Pyle asked about the required width for an access drive along the side of a building to reach a parking lot in the back. Mr. Szafran answered that a width of 20 feet would be required for this type of side access.

Chair Piro explained that the Planning Commission is responsible for providing a recommendation to the City Council, and the City Council would make the final decision. He asked what the status of the property would be if the City Council were to deny the rezone. Mr. Tovar said he inherited this issue when he was hired by the City in October of 2005. The Staff Report contains letters from him to Mr. Burt recounting the City's position and outlining different ways to proceed. In each of these letters, he clearly pointed out that there is no guarantee the Planning Commission and/or City Council would agree to rezone the property. If the rezone is not approved, the City would be back in an enforcement mode, with infractions, fines, liens, etc. However, staff believes a rezone would be the best method for resolving the situation to the satisfaction of the City, the neighbors and the subject property owner.

Chair Piro asked what would happen if the City Council were to ultimately make a decision that the property should revert back to a triplex. Mr. Tovar said the City would have to notify Mr. Burt that the rezone was not approved and that his property would continue to be in non-compliance with several provisions of the code. Mr. Burt would be given some time to comply before City would take action against him. He emphasized that if the rezone is not approved, staff does not believe the City would have a mechanism to preclude access to the subject property from Northwest 192nd Street.

Commissioner Hall asked staff to clarify why the existing fourplex has been designated as non-conforming. Mr. Szafran said the building should be referred to as an illegal use or structure rather than a non-conforming structure.

Commissioner McClelland referred to Page 52 of the Staff Report which states that on March 14, 2006 the City received a letter from the Burts requesting that they proceed with the rezone, and they also agreed to bring the property into compliance with the codes. She pointed out that the Commission never received a copy of this letter, and the letter from the Burts dated June 16, 2006 suggests that they changed their minds. Mr. Tovar agreed that there are some differences between the two letters.

Commissioner Harris clarified that as a conforming triplex unit, Mr. Burt would have legal access off of Northwest 192nd Street to his backyard for a parking lot. Mr. Tovar said that a permit has been approved by the City for a parking lot to occur with access from Northwest 192nd Street.

COMMISSIONER PYLE MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF THE REZONE TO R-18 WITH THE FOLLOWING CONDITIONS:

- **THAT THE NUMBER OF UNITS ON THE SITE BE LIMITED TO FOUR.**
- **THAT A LEGAL DOCUMENT BE FILED IN A FORM ACCEPTABLE TO THE CITY ATTORNEY THAT WOULD REQUIRE THE RESTORATION AND MAINTENANCE OF THE ACCESS BARRIER AT THE EAST END OF NORTHWEST 192ND STREET.**
- **THAT A 10-FOOT LANDSCAPE BARRIER BE INCLUDED ALONG THE WEST END OF THE SUBJECT PARCEL TO LIMIT THE IMPACT OF THE HIGHER DENSITY DEVELOPMENT. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.**

Commissioner Pyle pointed out the strong attendance of the neighbors living along Northwest 192nd Street. Their overriding concern appears to be access on Northwest 192nd Street. Closing the access from 192nd and installing a landscape barrier would limit the impacts of the increased density on 15th Avenue Northwest.

Commissioner Wagner inquired if the property owner and staff feel that the proposed new conditions would be reasonable. Mr. Tovar said staff feels the 10-foot buffer requirement would be a reasonable condition. Mr. Burt answered that the 10-foot buffer requirement would not be acceptable to him at all. He purchased the property as a 5-unit structure. If the neighbors would have reported the situation when it occurred with the previous owner, everyone would have been better off. He explained that the barricade was placed on Northwest 192nd Street in the 1960's to prevent teenagers from driving their jeeps through the vacant lot. While he wants to be a good neighbor and not construct a parking lot at the rear of his property, he would not support a condition that would take away his right to have some access from Northwest 192nd Street.

Mr. Burt explained that he purchased the property with his sister for additional income. He has already lost \$500 per month by eliminating the fifth unit, and eliminating an additional unit would result in a monetary loss of \$700 per month. His only option for income would be to sell the easement to the neighbors. He has a legal right to have an apartment on the site. He recalled that a few years ago, the neighbors attempted to place an illegal barrier on Northwest 192nd Street, but the City determined that he had legal access to his property. He said he would go along with a condition that would prohibit his tenants from parking on Northwest 192nd Street, but he would like to maintain his access right to do maintenance on his property. He pointed out that it would not be possible to place an access driveway along the south side of his property because the City's waterline runs along this area.

Again, Mr. Burt voiced that he would be opposed to a barrier being placed on Northwest 192nd Street to block his legal access. However, he would not be opposed to eliminating tenant parking in back. He said he would not be opposed to the City requiring a locked gate that only he would be able to access. Commissioner Pyle agreed that a fence and gate, as suggested by Mr. Burt, would serve the intent of his motion.

Commissioner Harris asked Mr. Burt's opinion about the new proposed Condition 3, which would require a 10-foot landscape barrier. Mr. Burt pointed out that blackberries are located along the rear property line. He said he would be happy to pay for a fence to be placed across the rear property line, as well.

Commissioner Hall pointed out that the Commission did not receive all of the comment letters that are identified in the Staff Report. Mr. Tovar said that all of the letters are on file in the City office. Commissioner Hall pointed out that only eight people spoke during the public hearing, but 52 people have also provided written comments. Of the written comments, 51 were opposed to the proposed rezone and one was in support. He has a hard time giving weight to the written comments because they are not part of the record before the Commission. The remainder of the Commission agreed with Commissioner Hall's concern. They discussed the option of continuing the hearing to a future meeting.

Commissioner Hall summarized that the landowner has indicated he would not support the motion that is currently on the table. On the other hand, neighbors have testified that they could support the proposed rezone with the condition that a fence or gate be added to block the access. However, if there is no recorded document to take away the legal access, a future property owner could choose to utilize this access for a parking lot. He noted that several written comments indicated a concern that the City was offering preferential treatment for this one property owner who has violated the code. He questioned if it is appropriate for the City to initiate a rezone application to address a long-standing code enforcement problem. If the garage had not been turned into an illegal dwelling unit, there would be two parking spaces in the garage, thus providing adequate parking for a triplex. In fact, there would even be adequate parking for a fourplex. He also emphasized that the structure is an illegal use and not a non-conforming use. The illegal use has an ongoing negative impact not only because of the extra dwelling unit but because parking space was taken away when the garage was converted.

Commissioner Hall asked Mr. Burt if he would support the rezone, if one condition required him to record on the property title a prohibition from ever getting vehicular access to the property from Northwest 192nd Street. Mr. Burt said he would support a prohibition of vehicular access to his property for the tenants only, but he would like to maintain his right to access the property for maintenance purposes.

Mr. Burt said it is important for the Commission to understand that the City issued a permit for the garage to be converted into the fourth unit, and they never followed through when the previous property owner put in a door to make a fifth unit. He said he wants to make sure that other property owners do not have similar experiences. When the City issues a red tag, they need to follow up to make sure the property owner gets the permit and that the work is done according to the permit approval. If not, they should put a lien on the title so that future property owners can be notified of the situation.

Mr. Tovar referred to Mr. Szafran's alternative language for the second condition, which would allow access for maintenance. If Mr. Burt's intent is to access the property with his own vehicle for maintenance purposes, staff contemplates this as an appropriate exception to vehicles coming from the west. However, the access should not be used on a daily basis by his tenants.

Commissioner Hall asked if Mr. Burt would have the ability, as per the motion, to grant an access easement to property owners further east for future uses. Mr. Tovar said the rezone conditions could prohibit this type of access easement, as well.

Vice Chair Kuboi left the meeting at 8:30 p.m.

COMMISSIONER PYLE WITHDREW HIS MOTION SO IT COULD BE RESTATED FOR ADDITIONAL CLARITY. COMMISSIONER PHISUTHIKUL CONCURRED.

Chair Piro expressed his concern about the precedent that might be set by the City approving a rezone application just to make a structure legal. Ideally, he would have liked the property to remain developed as a triplex with ample parking from 15th Avenue Northwest to meet the conditions of the code. Because that was not the case, the issue has become very complex and difficult to resolve.

Commissioner Wagner clarified that Mr. Burt did not want to give up his future property rights in case he moves back into the property at some point in the future. He felt that a permanent barrier on Northwest 192nd Street would be an infringement on his personal property rights. She noted that the proposed conditions would still allow for the future potential use of Northwest 192nd Street as a primary access road.

COMMISSIONER PYLE MOVED THAT THE HEARING BE CONTINUED TO ANOTHER DATE TO ALLOW THE COMMISSION TIME TO REVIEW THE ADDITIONAL WRITTEN COMMENT LETTERS. THE MOTION DIED FOR LACK OF A SECOND.

COMMISSIONER PHISUTHIKUL MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF REZONING THE PARCEL TO R-18 WITH FOUR CONDITIONS:

- **LIMIT THE NUMBER OF UNITS TO FOUR.**
- **RECORDED A LEGAL DOCUMENT IN A FORM ACCEPTABLE TO THE CITY ATTORNEY THAT WOULD ELIMINATE VEHICULAR ACCESS TO NORTHWEST 192ND STREET EXCEPT FOR MAINTENANCE OR EMERGENCY VEHICLES.**
- **PROHIBIT ACCESS EASEMENTS ACROSS THE SITE TO SERVE OTHER PROPERTY OWNERS.**
- **REQUIRE A 10-FOOT LANDSCAPE BUFFER ALONG THE WESTERN EDGE OF THE PROPERTY.**

COMMISSIONER PYLE SECONDED THE MOTION.

Commissioner Pyle clarified that the intent of the required landscape buffer along the western edge of the property would be to provide some separation between the high-density residential development and the low-density residential neighborhood. Rather than just placing a large fence at the end of Northwest 192nd Street, the landscaping could provide a residential feel to the end of the street.

Commissioner Hall said that while he appreciates the attempt to negotiate a compromise for a long-standing code enforcement issue, he would have to vote against the motion. He said he is concerned that approval could set a precedent in the future for the City to fix problems with zoning changes. Whether the current owner knew about the historical violation on the property or not, it was his responsibility to research and learn this information before purchasing the property. Therefore, he suggested that the current property owner's only reasonable expectation at the time of his purchase would have been for a legal use. A due diligence investigation would have determined that two of the units were illegal.

Commissioner Hall referred to the Comprehensive Plan policies. Land Use Policies 63 and 65 speak about adequate parking and off-street parking. This situation is an illegal use that took away the parking that was part of the originally approved permit for the triplex. Land Use Policy 99 states that the City should pursue active enforcement of its construction guidelines.

Commissioner Pyle said he would support the motion because he feels the staff's approach to addressing the problem has been unclear over the years. The City has changed its mind prior to Mr. Tovar's leadership. If the City had taken a clear course to resolve the process, he would feel much more strongly that they would be setting a precedent. But because the City has changed its mind the proposed rezone is one way to resolve the situation.

Commissioner McClelland clarified that if the rezone application is denied, the property owner would be able to enact the right-of-way permit that would allow him to construct parking off of Northwest 192nd Street. Mr. Szafran said the property owner would have to pay for the pending permit before the parking spaces could be constructed, but the current permit would allow the property owner to do work within the Northwest 192nd Street right-of-way. Chair Piro asked if the property owner would also be required to bring the property into full compliance with the code. Mr. Szafran answered that if the rezone is denied, the code enforcement case would remain open and pending until the violations are corrected.

Closure of the Public Hearing

COMMISSIONER WAGNER MOVED THAT THE PUBLIC PORTION OF THE HEARING BE CLOSED. COMMISSIONER PYLE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Vote by Commission to Recommend Approval, Denial or Modification

THE MOTION CARRIED 5-2, WITH CHAIR PIRO AND COMMISSIONER HALL VOTING IN OPPOSITION. (VICE CHAIR KUBOI HAD LEFT THE MEETING AT 8:30 P.M.)

STUDY SESSION ON DEVELOPMENT CODE AMENDMENT PACKAGE #1

Mr. Tovar explained that since he started working for the City, staff has experienced increasing backlogs and delays in processing development permits. Part of this is related to the lack of City resources to complete the civil review. Staff submitted a request to the City Council for a mid-year budget adjustment. If this adjustment is approved, the City would be able to hire a second Development Review Engineer. While this should help the situation, better communication between the Planning and Development Services and Public Works Departments is also necessary. In addition, code amendments are necessary to speed up the development permit review process.

Mr. Tovar explained that as the staff reviewed the existing Shoreline Municipal Code (SMC), the internal development guide, and past practices for dealing with permit issues, it became clear that some systemic problems must be fixed. Some can only be resolved by amending the SMC, and that is the purpose of Development Code Amendment Package 1.

Mr. Szafran noted that all of the code amendments in the package were proposed by the staff. He briefly reviewed the proposed amendments and the rationale for each one as follows:

- **Amendment 1** would clarify when a site development permit is needed.

- **Amendment 2** would add language referring to procedural requirements for a pre-application meeting and to better inform an applicant during the meetings as to what permits might be necessary and what the time frames would be.
- **Amendment 3** is a new code section referring to site development permits. At this time, it is not clear when a site development permit is needed.
- **Amendment 4** would delete condominiums from requiring a binding site plan. A binding site plan would only be used for commercial and industrial development in Shoreline.
- **Amendment 5** has to do with modifying building coverage and impervious areas for “zero” lot line developments. The maximum coverage would still apply to the overall site, but the individual “zero” lot line lots would be allowed flexibility.
- **Amendment 6** applies to driveways. Currently, the development code requires a 5-foot setback for residential driveways from a property line. Most of the short plats coming into the City are on existing lots with homes where they may not have enough room to provide a new driveway to a new back lot. Other sections of the code allow anything less than 18 inches tall (patio, deck, etc.) to go up to the property line, so a driveway should be allowed to do the same.
- **Amendment 7** reorganizes the easement and tract language. No new language was proposed.
- **Amendment 8** would allow private streets to be located within an easement. This would allow a property owner more flexibility and could result in the potential for creating an additional building lot.

Commissioner Pyle requested clarification for **Amendment 6** which would allow a developer to put the driveway down the side of a property line. He noted that in the past, a 5-foot separation has been required when a driveway crosses over the property line. He asked if the proposed amendment would allow a variation from this design standard, which is in the Engineering Design Handbook. If not, he asked if the Engineering Design Handbook would be amended in conjunction with the code amendment. Mr. Szafran answered that the Engineering Design Handbook requirement would still apply. Commissioner Pyle said that this would require that the driveway be meandered away from the property line where it meets the street in order to provide a 5-foot separation. Mr. Szafran clarified that this provision would only apply to the interior lot area.

Mr. Tovar said the City would be working on revisions to the Engineering Design Handbook in the near future to make it more internally consistent and more consistent with the code language, as well. These changes would be done administratively, but could be brought before the Commission for their information.

Commissioner Harris referred to **Amendments 6 and 8** which would allow driveways within all required setbacks and private streets within an easement. He explained that easements, tracts and driveway widths are three very well-used issues to either limit or encourage back lot development. He asked if there has been a recent change in philosophy to try to encourage development of some of the back lots. Mr. Tovar said this change was generated by the staff. He said direction from the Growth Management Act is to use the urban land more efficiently. This does not mean putting too much density where it is not appropriate, but many of the existing code requirements make it difficult for property owners to do infill development on the passed-over pieces of property.

Commissioner Hall inquired if staff would propose any policy changes to the Comprehensive Plan to promote a more efficient use and redevelopment of residential properties. If there is a common theme driving the proposed development code amendments, perhaps they should also review the land use section of the Comprehensive Plan. Mr. Tovar said that a review of the Comprehensive Plan policies could be part of the City's future discussion regarding Comprehensive Housing Strategies.

REPORTS OF COMMITTEES AND COMMISSIONERS

None of the Commissioners provided additional comments during this portion of the meeting.

UNFINISHED BUSINESS

Director's Report

Mr. Tovar announced that the Annual American Planning Association would be held on October 4, 5 and 6 in Yakima, Washington. He invited the Commissioners to notify the staff of their intentions to attend the event. Mr. Cohn also announced that an Affordable Housing Conference has been scheduled for September 11 and 12 in Bellevue, Washington. He encouraged the Commissioners to contact staff as soon as possible if they plan to attend.

Mr. Tovar announced that a property rights measure was filed today with the Secretary of State. 225,000 signatures were required to qualify for the ballot, and they submitted 315,000 signatures so it is highly likely that the issue would be on the next ballot. In the near future, staff would review information that has been generated by the Association of Washington Cities and consider the best way to inform the staff, Planning Commission, City Council and the community about the impacts of this measure.

Mr. Tovar recalled that a joint meeting has been scheduled with the Planning Commission and the Parks Board on September 7th to discuss the issue of urban forests, the Cascade Land Conservancy's Cascade Agenda, etc. This is good timing, since the City Council recently adopted their 2007-2008 goals.

NEW BUSINESS

No new business was scheduled on the agenda.

ANNOUNCEMENTS

No additional announcements were provided during this portion of the meeting.

AGENDA FOR NEXT MEETING

Mr. Tovar distributed binders to each of the Commissioners in preparation for their July 20th retreat. The binders include survey results, the City Council's 2007-2008 goals, agenda planners, etc. He said he would be prepared to discuss how the Commission would be involved in implementing the 2007-2008 goals at the Commission retreat.

Mr. Cohn said the Assistant City Manager has indicated that she would like the Commissioners to discuss their work program at the upcoming retreat. She suggested they each come up with three items that could be part of the Commission's upcoming work program. She would be going through a process with the Commission and staff to identify their top three work items.

ADJOURNMENT

The meeting was adjourned at 9:30 p.m.

Rocky Piro
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

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