

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<p><b>AGENDA TITLE:</b> Adoption of Ordinance No.460, a Site Specific Rezone located at 18501 and 18511 Linden Ave. N. File No. 201570</p> <p><b>DEPARTMENT:</b> Planning and Development Services</p> <p><b>PRESENTED BY:</b> Joe Tovar, PADS Director Steven Szafran, Planner II</p>
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**PROBLEM/ISSUE STATEMENT:**

The issue before the City Council is a Site Specific Rezone for two parcels located at 18501 and 18511 Linden Ave. N (see **Attachment C1**). The Planning Commission recommends that the parcels be rezoned from Office and R-48 to Community Business ("CB"). The applicant originally requested a change to Regional Business ("RB") but supports the Planning Commissions recommendation with the understanding that the Planning Commission will consider a proposal that allows higher residential densities on properties adjacent to a near Aurora Avenue North

The proposed zone change will allow more commercial space with greater residential density in close proximity to transit routes.

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 during two meetings in January and February 2007. 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 February 1, 2007.

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

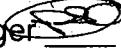
- The Council could adopt the zoning recommended by the Planning Commission and Staff and supported by the applicant (a rezone from O and R-48 to CB).
- The Council could deny the rezone request, leaving the zoning at O and R-48 (as it currently exists) or remand the request back to the Planning Commission for additional review and analysis.

**FINANCIAL IMPACTS:**

- There are no direct financial impacts to the City.

**RECOMMENDATION**

Staff recommends that the Council adopt Ordinance No.460, (**Attachment A**) thereby approving the rezone located at 18501 and 18511 Linden Avenue North from Office and R-48 to Community Business (CB).

Approved By: City Manager  City Attorney Fpc

## **INTRODUCTION**

The rezone recommendation before Council is a request to change the zoning designation for two parcels located at 18501 and 18511 Linden Ave N. from Office and R-48 to Community Business.

A public hearing before the Planning Commission occurred on January 4 and February 1, 2007. The Planning Commission Findings and Recommendation are included in **Attachment B**

The Planning Commission recommended that the rezone of the property from Office and R-48 to Community Business be approved. The draft minutes of the public hearing are included in **Attachment D and E**.

## **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. One of the subject parcels, the James Alan Salon Site, has a land use designation of Community Business. Appropriate zoning designations for the Community Business land use designation include R-12, R-18, R-24, R-48, O, NB, CB and RB. The parcel directly to the north and those adjoining it to the north are designated Mixed Use in the Comprehensive Plan. Appropriate Zoning designations for the Mixed Use land use designation include R-8, R-12, R-18, R-24, R-48, O, NB, CB, RB and I.

The site is currently zoned Office and R-48. The James Alan Salon sits on the Office zoned parcel and a single-family home used as office and storage space sits on the R-48 zoned parcel. Under the proposed zone change, both parcels would be zoned Community Business to allow for a future mixed use development.

The proposed zone change will allow more commercial space with greater residential density. The recommended CB zoning will allow approximately 5000 square feet of commercial space with approximately 15 dwelling units above the retail space. If the Development Code is modified by the Planning Commission, a mixed use development might be expected to have between 20-30 residential units.

## **APPLICATION PROCESS**

The application process for this project began on June 19, 2006, when the applicant held a pre-application meeting with city staff. A neighborhood meeting was held on July 31, 2006 with property owners within 500 feet of the proposed rezone. The formal application was submitted to the city on August 31, 2006 and was determined complete on September 14, 2006.

The requisite public hearing was held before the Planning Commission on January 4, 2007. The Planning Commission made a recommendation and formulated Findings

and Determination on February 1, 2007. The Planning Commission voted to recommend approval of the rezone to Community Business with no added conditions. Prior to making the recommendation, the Commission was informed that the next set of Development Code Amendments would include one to permit added density on CB parcels adjacent to or near Aurora Avenue North.

### **PUBLIC COMMENT**

The City received 2 comment letters in response to the standard notice procedures for this application prior to the public hearing. The property owner's agent testified at the Planning Commission public hearing on this proposed action. No one from the public was in attendance at the public hearing.

The comments (Attachments C4 and D) focused on the following issues:

- Pedestrian safety
- Traffic
- Parking
- Commercial uses in a residential area

The Planning Commission addressed the comments in its Findings and Determination (Attachment B).

### **PLANNING COMMISSION RECOMMENDATION: Rezone to Community Business**

The applicant has requested that the subject parcels be rezoned to **Regional Business**. Planning Commission in its Findings and Determination found that a rezone to **Community Business** 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.*

### **OPTIONS FOR CITY COUNCIL**

The options available to the City Council are:

1) Adoption of the Planning Commission and Staff's recommendation of Community Business.

- 2) Remand the rezone back to the Planning Commission for additional review.
- 3) Denial of the rezone request. The Council may review the written record and determine that the existing Office and R-48 zoning is the most appropriate designation for the subject parcel. This determination would be consistent with the *Community Business* and *Mixed Use* Comprehensive Plan designation for the parcels, as this designation includes both the existing zoning (Office and R-48) and the requested and recommended zoning (RB and CB).

### **RECOMMENDATION**

Staff recommends that Council adopt Ordinance No.460, (**Attachment A**) thereby approving the rezone of a portion of one parcel located at 18501 and 18511 Linden Avenue North from Office and R-48 to Community Business (CB).

### **ATTACHMENTS**

- Attachment A: Ordinance No.460: Office and R-48 to CB.
  - Exhibit A – Legal Description
- Attachment B– Planning Commission Findings and Determination- February 1, 2007
- Attachment C: Planning Commission Staff Report
  - C1: Existing Conditions Site Plan
  - C2: Vicinity Map with Zoning Designations
  - C2: Vicinity Map with Comprehensive Plan Land Use Designations
  - C3: Public Comment Letters
- Attachment D: Planning Commission Minutes- January 4, 2007
- Attachment E: Planning Commission Minutes- February 1, 2007

**ORDINANCE NO 460**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP CHANGING THE ZONING FROM OFFICE (O) AND RESIDENTIAL 48 DU-AC (R-48) TO COMMUNITY BUSINESS OF TWO PARCELS LOCATED AT 18501 AND 18511 LINDEN AVENUE NORTH (PARCEL NUMBERS 7283900302 AND 7283900303).**

WHEREAS, the owner of the property, with parcel number 7283900302 and 7283900303, has filed an application to reclassify the property from Office (O) and Residential 48 units per acre (R-48) to Regional Business (RB); and

WHEREAS, on January 4, 2007 and February 1, 2007, 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 February 1, 2007, the Planning Commission recommended approval of the reclassification to Community Business (CB) 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 18501 and 18511 Linden Avenue North (parcel numbers 7283900302 and 7283900303), to Community Business 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. 201570 as set forth by the Planning Commission on February 1, 2007 and are hereby adopted.

**Section 2.** Amendment to Zoning Map. The Official Zoning Map of the City of Shoreline is hereby amended to change the zoning classification of said parcels, located at 18501 and 18511 Linden Avenue North (parcel numbers 7283900302 and 7283900303) from Office and R-48 to Community Business.

**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, and publication of the title as a summary of this ordinance.

**PASSED BY THE CITY COUNCIL ON March 26, 2007.**

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Mayor Robert L. Ransom

**ATTEST:**

**APPROVED AS TO FORM:**

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Scott Passey  
City Clerk

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Ian Sievers  
City Attorney

Date of Publication:  
Effective Date:

**CITY OF SHORELINE  
PLANNING COMMISSION**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION**

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**PROJECT INFORMATION SUMMARY**

**Project Description:** Rezone application to change the zoning designation of two parcels from Residential – 48 dwelling units per acre and Office to Regional Business.

**Project File Number:** 201570

**Project Address:** 18501 and 18511 Linden Avenue North, Shoreline, WA 98133

**Property Owner:** Hanfax Properties LLC.

**SEPA Threshold:** Determination of Non-Significance (DNS)

**Staff Recommendation:** Recommend approval of a rezone of the two parcels to Community Business.

**FINDINGS OF FACT**

*Current Development*

1. The parcels at issue are located at 18501 and 18511 Linden Avenue North, the northwest corner of North 185<sup>th</sup> Street and Linden Avenue North.
2. 18501 Linden Avenue North (tax ID # 7283900302) is 7,079 square feet and is developed with the James Alan Salon. The site is zoned Office (“O”) and has a Comprehensive Plan Land Use designation of Community Business (“CB”). *Attachment 1 to January 4, 2007 Planning Commission Staff Report.*
3. 18511 Linden Avenue North (tax ID # 7283900303) is 6,648 square feet, directly to the north of 18501 Linden Avenue North, and developed with one single-family residence used as storage space. The site is zoned Residential – 48 dwelling units per acre (“R-48”) and has a Comprehensive Plan Land Use designation of Mixed Use (“MU”).
4. The surrounding neighborhood has experienced development recently: four townhomes have been approved directly to the west of the subject parcels (732 N. 185<sup>th</sup>) and a demolition permit for a single-family home was approved in preparation for additional townhome units (742 N. 185<sup>th</sup>).
5. There are existing sidewalks along N 185<sup>th</sup> Street adjacent to the applicant’s property. No sidewalks exist along Linden Ave N. A traffic signal with crosswalks is located at the intersection of Linden Ave N and N 185<sup>th</sup> Street.

*Proposal*

6. The applicant proposes to rezone both parcels to Regional Business (“RB”).
7. A pre-application meeting was held with the applicant and City staff on June 19, 2006, the applicant held the requisite neighborhood meeting on July 31, 2006, and a Public Notice of Application was posted at the site.
8. Comments received at the neighborhood meeting addressed a desire to see more condominiums, redevelopment and mixed use buildings in the area. The two written comments received during the public comment period included concerns about ample customer parking, traffic, pedestrian safety, commercial zoning on the west side of Linden and commercial uses in a residential area.
9. Advertisements were placed in the Seattle Times and Shoreline Enterprise, and notices were mailed to property owners within 500 feet of the site on September 21<sup>st</sup>, 2006. The Notice of Public Hearing and SEPA Determination were 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 site on October 12<sup>th</sup>, 2006.
10. The Planning Department issued a SEPA Determination of Non-Significance and notice of public hearing on the proposal on October 12, 2006. The DNS was not appealed.
11. An open record public hearing was held by the Planning Commission for the City of Shoreline on January 4, 2007.
12. The City’s Long Range Planner, Steven Cohn, and Planner II, Steve Szafran, have reviewed the proposal and recommend that the parcels be rezoned to Community Business.

*Comprehensive Plan Land Use Designations.*

13. Parcels to the north and to the east have a Comprehensive Plan Land Use designation of Mixed Use, which allows R-8 through R-48 residential zoning and all commercial and industrial zoning; parcels to the south have a Community Business designation, which allows R-12 through R-48, Office, Neighborhood Business, Community Business and Regional Business; and parcels to the west are designated Medium Density Residential, which allows R-8 and R-12. *Attachment 3 to January 4, 2007 Planning Commission Staff Report.*
14. The Comprehensive Plan describes Mixed Use as applicable “to a number of stable or developing areas and to the potential annexation area at Point Wells,” and intended “to encourage the development of pedestrian oriented places, with architectural interest, that integrate a wide variety of retail, office, and service

uses with residential uses.” Regional Business is allowed under Mixed Use land use designation.

15. The Comprehensive Plan describes Community Business as areas within the Aurora Corridor, North City and along Ballinger Road. This designation provides for retail, office, and service uses and high density residential uses. Significant pedestrian connection and amenities are anticipated. Some limited industrial uses might be allowed under certain circumstances. Appropriate zoning designations for this area might include the Neighborhood Business, Community Business, Regional Business, Office, R-12, R-18, R-24, or R-48.

#### *Current Zoning*

16. Parcels immediately to the north of the subject parcels are zoned R-18 and developed with a public utility building, single-family homes and condominiums; parcels to the south (across 185<sup>th</sup>) have a variety of uses and zoning designations including offices zoned R-12, R-18 and Office, the Fred Meyer shopping center zoned RB, and a fire station; parcels to the west are zoned R-12 and townhomes are currently under development; and parcels to the east (across Linden Avenue North) have a variety of uses and zoning designations including retail, office and apartments zoned RB, Office, and R-48. *Attachment 2 to January 4, 2007 Planning Commission Staff Report.*
17. The purpose of Office zones, as set forth in Shoreline Municipal Code 20.40.040, is to “allow for low intensity office, business and service uses located on or with convenient access to arterial streets” and to “accommodate medium and higher density residential, townhouses, mixed use types of development, while serving as a buffer between higher intensity uses and residential zones.”
18. The purpose of R-48 zones, as set forth in Shoreline Municipal Code 20.40.040, is to “provide for a mix of predominantly apartment and townhouse dwelling units and other compatible uses.”

#### *Proposed Zoning*

19. Under SMC 20.30.060, a rezone is Type C action, decided by the City Council upon recommendation by the Planning Commission. The decision criteria for deciding a rezone, as set forth in SMC 20.30.320, are:
  - The rezone is consistent with the Comprehensive Plan; and
  - The rezone will not adversely affect the public health, safety or general welfare; and
  - The rezone is warranted in order to achieve consistency with the Comprehensive Plan; and
  - The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone; and
  - The rezone has merit and value for the community.

20. The purpose of a Regional Business zoning district, as set forth in the Shoreline Municipal Code 20.40.040, is to “provide for the location of integrated complexes made up of business and office uses serving regional market areas with significant employment opportunities”. The Regional Business category permits intense land uses such as warehousing, kennels, construction, retail, and auto rental and allows unlimited residential density.
21. The purpose of a Community Business zoning district, as set forth in Shoreline Municipal Code 20.40.040, is to “provide location for a wide variety of business activities, such as convenience and comparison retail, personal services for local services and to allow for apartments and higher intensity mixed use developments.”

*Impacts of the Zone Change*

22. The following table outlines the development standards for the current zoning, the proposed zoning (RB) and the staff recommended zoning (CB):

	Office (Current)	R-48 (Current)	RB (Applicant Proposed)	CB (Staff recommended)
Front Yard Setback	10' (0 if improved)	10' (0 if improved)	10' (0 if improved)	10' (0 if improved)
Side Yard Setback	10'	5'	15'	10'
Rear Yard Setback	10'	5'	15'	N/A
Building Coverage	N/A	70%	N/A	N/A
Max. Impervious Surface	85%	90%	90%	85%
Height	35' (50' for mixed-use)	50'	65'	60'
Density (residential development)	24 du/ac	48 du/ac	No maximum	48 du/ac
Total Units	8	15	35	15
Likely no. of parking stalls	30	22	76	45

**CONCLUSIONS**

1. The purpose of a rezone is to provide a mechanism to make changes to a zoning classification, conditions or concomitant agreement applicable to property. Rezone criteria must be established by substantial evidence.
2. The notice and meeting requirements set out in SMC 20.30 for a Type C action have all been met in this case.

*Rezone criteria*

*Is the rezone consistent with the Comprehensive Plan?*

3. a. Under the first criterion, both RB and CB are appropriate under Land Use Element Goals I and V of the Comprehensive Plan.

- Land Use Element Goal I of the Comprehensive Plan is to “[e]nsure 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 maintain Shoreline’s sense of community.”
- Land Use Element Goal V of the Comprehensive Plan is to “assure that a mix of uses, such as services, office, retail, and residential, are allowed either in low intensity buildings placed side by side or within the same building in designated areas, on arterials, or within close walking distance of high frequency transit, serving a neighborhood commercial and residential function.”

The RB rezone proposal is consistent with Land Use Element Goal I and V because a more intense commercial zone will promote redevelopment and allow for a greater mix of uses. CB is also consistent with these goals.

- b. However, the proposed rezone to RB is not consistent with Community Design Element Policy CD 48. CD 48 states: “Develop attractive, functional, and cohesive commercial areas that are harmonious with adjacent neighborhoods, by considering the impacts of the land use, building scale, views and through-traffic.”

The RB zoning would result in greater development intensity and use than is appropriate in this area, an area of transition between the commercial area of Aurora and the residential neighborhoods to the west. Specifically, the RB zoning category could result in structures that are taller and bulkier, and do not fit as well with other buildings in the area, even after nearby properties are redeveloped.

- c. Rezoning the parcels to CB is consistent with the Comprehensive Plan as it would allow commercial, residential or a mix of both uses, is supported by land use and community design goals of the Comprehensive Plan. CB zoning would allow for height and density that would be more compatible with what currently exists in the neighborhood and more harmonious with adjacent land uses.

*Will the rezone adversely affect the public health, safety or general welfare?*

4. The GMA planning process of developing Comprehensive Plan designations which allows this level of development and the City’s development standards in

its zoning regulations for the RB or CB zone protect against uses that would be contrary to the public health, safety or general welfare.

*Is the rezone warranted in order to achieve consistency with the Comprehensive Plan?*

5. Both RB and CB zoning maintain consistency with the Comprehensive Plan. However, CB provides better compatibility with Comprehensive Plan goals and policies than the existing zoning. Linden Ave N is a dividing line between more intense commercial uses that front along Aurora Ave N and lower intensity commercial, single-family and multi-family uses that exist west of Linden Ave N. A Community Business rezone would allow a wide range of commercial uses and achieve approximately 15 new dwelling units if the property develops with multi-family uses.

*Will the rezone be materially detrimental to uses or property in the immediate vicinity of the subject rezone?*

6. The proposed rezone will have minimal negative impacts to the properties in the immediate vicinity. Concerns have been raised by adjacent neighbors concerning appropriateness of the commercial zoning, increased traffic and parking, and pedestrian safety. The following summary addresses each of these.

- a. Appropriateness of Commercial Zoning

Although, historically, the area west of Linden Ave N was not planned for commercial uses, the Comprehensive Plan has identified this area as being appropriate for mixed use development which permits a variety of uses—single-family and multifamily uses, offices, and retail businesses.

As the two parcels have Mixed Use and Community Business land use designations, commercial zoning is appropriate. A Community Business zoning designation will result in new structures that will be compatible with existing densities, uses, and building heights.

- b. Traffic/Parking

Depending on the uses of any new future structures, adequate parking requirements must be met.

- c. Pedestrian Safety

Development on one or both of the properties will require sidewalks be installed the length of the applicant's property along Linden Ave N. .

*Will the rezone have merit and value for the community?*

7. The proposed rezone will allow commercial expansion to meet the changing needs of the community. This criterion is met since the rezone provides an opportunity to accommodate more jobs and multi-family dwelling units in an area not immediately adjacent to existing single-family neighborhoods and in close proximity to services and transportation.

### RECOMMENDATION

The Planning Commission recommends that the City Council approve a rezone of the two parcels to Community Business, but deny the request for rezone to Regional Business.

Date: 15 February 2007

By: Rocky Kuo  
Planning Commission Chair

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

**AGENDA TITLE:** Type C Action: Rezone Application #201570 for two parcels generally located at 18501 and 18511 Linden Ave N from R-48 (Residential 48 dwelling units/acre) and Office (O) to Regional Business (RB).

**DEPARTMENT:** Planning and Development Services

**PRESENTED BY:** Steven Szafran, Planner II

**I. PROPOSAL**

The applicant, James Alan Salon, applied for a rezone to modify the existing zoning category for a 6,648 square foot parcel zoned R-48 and a 7,079 square foot parcel zoned Office located at 18511 and 18501 Linden Ave N. This application before the Planning Commission is a request to *change the zoning designation from R-48 (Residential - 48 dwelling units per acre) and Office (O) to RB (Regional Business)*. The applicant is not proposing any development plans at this time. A site plan showing the site configuration of the proposal (existing site conditions) is included as **Attachment 1**. A vicinity map showing existing zoning for the project site and adjacent properties is located in **Attachment 2**. The parcels have Comprehensive Plan Land Use designations of Community Business and Mixed Use. (**Attachment 3** illustrates the comprehensive plan land use designations of the surrounding vicinity).

*Staff is proposing that the parcels be rezoned to Community Business (CB). Staff's rationale for its recommendation is presented in the Findings section. The applicant has verbally conveyed to staff that he is comfortable with staff's recommendation.*

Under the Appearance of Fairness Doctrine, local land use decisions that are not of areawide significance shall be 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.

This report summarizes the issues associated with this project and discusses whether 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. The recommendation is then forwarded to City Council, which is the final decision making authority for Type C Actions.

## **II. FINDINGS**

### **1. SITE**

The subject sites are located on the northwest corner of N 185<sup>th</sup> Street and Linden Avenue North. As indicated previously the sites are zoned Office and R-48 and have a land use designation of Community Business and Mixed Use, respectively.

The corner parcel is developed with the James Alan Salon and the parcel directly north is developed with one single-family residence. Together, the parcels measure 13,727 square feet in area (approximately .3 acres). The sites are generally flat and there are two significant trees.

Access to the salon is from a commercial driveway off of N 185<sup>th</sup> Street and the single-family home is accessed from a residential driveway off of Linden Avenue N (**Attachment 1**). If the site is redeveloped, access will most likely be from N. 185<sup>th</sup> Street.

Parking requirements for the site are based on use. Currently the James Alan site has sufficient parking for the salon. When a development proposal is submitted to the City, parking will be calculated using the square footage of any new structures. The Shoreline Development Code specifies 1 parking space for every 300 square feet accessible to the public for office/commercial uses. Along with the required amount of parking, the applicant will have to provide parking lot landscaping as well.

A traffic study will be required if P.M. Peak Hour Trips exceed 20. Since no development proposal is being submitted at this time, a traffic study will not be required. When a proposal for development is submitted to the City, the structure will be evaluated for traffic impacts at that time.

### **2. NEIGHBORHOOD**

The project site is located in the Hillwood Neighborhood. Access to the property is gained from N 185<sup>th</sup> Street, a street that is classified as a Minor Arterial and Linden Ave. N., a street that is classified as a local street.

#### **Surrounding Zoning**

The zoning of the parcels immediately north of the subject parcels are R-18 and developed with a public utility building, single-family homes and condominiums. To the west are parcels zoned R-12 and are in the process of developing with townhomes. To the south, across N 185<sup>th</sup> Street, is a fire station, offices zoned R-12, R-18 and Office and the Fred Meyer shopping center zoned RB. To the east, across Linden Avenue N is a mix of uses including retail, office and apartments zoned RB, Office and R-48.

#### **Surrounding Comprehensive Plan Land Use Designations**

Parcels to the north and east are all designated for Mixed Use. The Mixed Use land use designation includes R-8 through R-48 residential zoning and all commercial and

industrial zoning. Parcels to the west are designated Medium Density Residential and parcels to the south are designated Community Business which allows R-12 through R-48 and Office, Neighborhood Business, Community Business and Regional Business. The zoning classifications and Comprehensive Plan Land Use designations for the project sites and immediate vicinity are illustrated in **Attachments 2 and 3**.

### **3. TIMING AND AUTHORITY**

The application process for this project began on June 19th, 2006, when a pre-application meeting was held with the applicant and City staff. The applicant held the requisite neighborhood meeting on July 31<sup>st</sup>, 2006. The application was determined complete on September 14<sup>th</sup>, 2006. A Public 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 site on September 21<sup>st</sup>, 2006. The Notice of Public Hearing and SEPA Determination 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 site on October 12<sup>th</sup>, 2006.

Comments were received at the neighborhood meeting and during the public comment period. The comments are included in **Attachment 4** and discussed as part of Criteria #4 (below).

Rezone applications shall be evaluated by 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.

### **5. CRITERIA**

The following discussion addresses whether the proposal meets or does not meet the decision criteria listed in Section 20.30.320(B) of the SMC.

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

The Comprehensive Plan land use map identifies the subject parcels as *Community Business* and *Mixed Use*. One parcel is developed with one single family home and the other is developed with a salon. The salon is consistent with the *Community Business* land use designation in use though not in building intensity. The single-family home is not consistent with the goals and policies of the *Mixed Use* land use category.

The following are zoning category definitions for the Shoreline Development Code (20.40.040).

Community Business: The purpose of the community business zone (CB) is to provide the location for a wide variety of business activities, such as convenience and comparison retail, personal services for local services and to allow for apartments and higher intensity mixed use developments.

**Regional Business:** The purpose of the regional business (RB) and industrial (I) zones is to provide for the location of integrated complexes made up of business and office uses serving regional market areas with significant employment opportunities.

The MU (Mixed Use) designation has no uniquely equivalent zoning designation. Below is the Comprehensive Plan description of the MU district:

“The mixed use designation applies to a number of stable or developing areas and to the potential annexation area at Point Wells. This designation is intended to encourage the development of pedestrian oriented places, with architectural interest, that integrate a wide variety of retail, office, and service uses with residential uses.”

Although the proposed Regional Business zoning is permitted by the *Community Business* and *Mixed Use* Comprehensive Plan land use designations, staff believes that it would result in greater development intensity and use than is appropriate in this area, an area of transition between the commercial area of Aurora and the residential neighborhoods to the west. Therefore staff is recommending CB (Community Business) zoning on both sites.

The following table summarizes the bulk requirements for the current zoning and the potential Regional Business zoning. (Note: The following standards apply to new construction.

<b>Standard</b>	<b>RB(Applicant Proposed)</b>	<b>Office (Current)</b>	<b>R-48 (Current)</b>
Front Yard Setback	10' (0 if improved)	10' (0 if improved)	10' (0 if improved)
Side Yard Setback	15'	10'	5'
Rear Yard Setback	15'	10'	5'
Building Coverage	N/A	N/A	70%
Max Impervious Surface	90%	85%	90%
Height	65'	35'(50' for mixed-use)	50'
Density (residential development)	No Maximum	24 du/ac	48 du/ac

The following table summarizes the bulk requirements for the requested RB zoning and the recommended alternative of Community Business.

<b>Standard</b>	<b>RB (Proposed)</b>	<b>CB (Recommended)</b>
Front Yard Setback	10' (0 if improved)	10' (0 if improved)
Side Yard Setback	15'	10'
Rear Yard Setback	N/A	N/A
Building Coverage	N/A	N/A
Max Impervious Surface	90%	85%
Height	65'	60'
Density	No Maximum	48 du/ac

Both the Regional Business and Community Business zoning designations may be appropriate for the site in order to achieve the following goals of the Comprehensive Plan, including:

**Goal LU I:** 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 maintain Shoreline's sense of community.

*Goal LU V: To assure that a mix of uses, such as services, office, retail, and residential, are allowed either in low intensity buildings placed side by side or within the same building in designated areas, on arterials, or within close walking distance of high frequency transit, serving a neighborhood commercial and residential function.*

The proposed rezone will allow commercial, residential or a mix of both uses on the two subject parcels. The two parcels are located adjacent to N 185<sup>th</sup> Street, a Collector Arterial, and 600 feet east of the Aurora Corridor. One of the parcels currently offers services to the Shoreline community (James Alan Salon) while the other will most likely serve that purpose in the future.

The proposed zone change complies with both the Comprehensive Plan designations of Community Business and Mixed Use. Practically, there are minor differences between the requested Regional Business and Community Business zoning in terms of permitted uses, but the use differences are important. The Regional Business category permits more intense land uses such as Warehousing, Kennels, Construction Retail and Auto Rental and allows unlimited residential density.

*CD 48: Develop attractive, functional, and cohesive commercial areas that are harmonious with adjacent neighborhoods, by considering the impacts of the land use, building scale, views and through-traffic.*

The following table outlines the differences among the likely development possibilities in the following zoning categories:

	<b>RB</b>	<b>CB</b>	<b>NB</b>	<b>O</b>	<b>R-48</b>
Floor Area Ratio	.5	.5	.4	.4	.4
Max Height	65 ft	60 ft	50 ft	50 ft	50 ft
Max DU's/ Acre	No Max	48	24	24	48
Likely Bldg Sq. Ftg	41,818	34,848	22,303	22,303	22,303
Likely Bldg footprint	6,970	6,970	5,576	5,576	0
Total Units	35	15	8	8	15
Site Area	13,727	13,727	13,727	13,727	13,727
Likely no. of parking stalls	76	45	30	30	22

*With Community Business zoning, the height and density of the subject parcels would more compatible with what currently exists in the neighborhood. The requested Regional Business zoning category could result in structures that are taller and bulkier, and do not fit as well with other buildings in the area, even after nearby properties are redeveloped. Development under Community Business zoning would be more harmonious with adjacent land uses.*

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

Staff concludes that a rezone to Community Business will not adversely affect the public health, safety or general welfare of the surrounding neighborhood and community. The James Alan Salon has been part of this community for many years without any ill effects. The rezoning would allow the expansion of the use onto the parcel directly north of the salon. Since the parcels are currently zoned for business (O) and high-density residential (R-48), more intense development can occur on the subject parcels whether the rezone is approved or not.

This area has seen changes recently. Four townhomes have been approved directly to the west of the subject parcels (732 N. 185<sup>th</sup>). In addition, a demolition permit for a single-family home was approved in preparation for additional townhome units (742 N. 185<sup>th</sup>).

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

The sites' Comprehensive Plan land use designations are *Community Business* and *Mixed Use*. Consistent zoning designations for these land uses include R-8 through R-48 and all commercial zoning categories. The subject parcels are currently zoned Office and R-48. Right now, one site is developed with a single-family house at a density of 6.6 dwelling units an acre, which is underdeveloped under the R-48 zoning category. The other site is the James Alan Salon zoned for Office uses (retail and personal services are allowed under the Office zoning category). The application to change the zoning of the parcels to Regional Business was made for future expansion of the salon and potentially developing a mixed-use building in the future.

The current zoning in the immediate vicinity of the project includes R-6, R-12, R-18, Office and Regional Business. The uses in the area include single-family houses, townhomes/condos, a fire station, offices, a bank and shopping centers.

Staff has recommended that Community Business be the approved zoning. Linden Ave N is a dividing line between more intense commercial uses that front along Aurora Ave N and lower intensity commercial, single-family and multi-family uses that exist west of Linden Ave N. Staff's proposal of Community Business would allow a wide range of commercial uses and achieve approximately 15 new dwelling units if the property develops for multi-family uses.

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

At this time the proposed rezone appears to have minimal negative impacts to the properties in the immediate vicinity. The property owner plans to expand the existing salon onto the property to the north.

Concerns have been raised by adjacent neighbors concerning appropriateness of the commercial zoning, increased traffic and parking, and pedestrian safety. The following summary addresses each of these.

***Appropriateness of Commercial Zoning***

Staff received comments that this area, west of Linden Ave N, was not planned for commercial uses. Historically, this has been true, but the Comprehensive Plan has identified this area as being appropriate for mixed use development which permits a variety of uses—single-family and multifamily uses, offices, and retail businesses.

The City adopted the Comprehensive Plan and designated certain areas as areas where a mix of uses should occur. The subject parcel is in one of those areas. Commercial zoning is appropriate under the Mixed Use and Community Business land use designation. A Community Business zoning designation will result in new structures that will be compatible with existing densities, uses, and building heights.

### *Traffic/Parking*

At this time, the applicant is proposing to rezone the parcels with no new changes to the site.

Currently the James Alan Salon has 9 parking spaces where 8 are required under the Shoreline Development Code. Depending on the uses of any new future structures, adequate parking requirements must be met.

### *Pedestrian Safety*

There are existing sidewalks along N 185<sup>th</sup> Street adjacent to the applicant's property. No sidewalks exist along Linden Ave N. Development on one or both of the properties will require sidewalks be installed the length of the applicant's property along Linden Ave N. In addition to the sidewalks, there is a traffic signal with crosswalks at the intersection of Linden Ave N and N 185<sup>th</sup> Street.

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

The proposed rezone will allow a commercial use that has been located in Shoreline for a number of years expand to meet the changing needs of the community. A bigger building will employ more people, provide more services to the residents of Shoreline, provide adequate parking, and potentially add to the housing stock of the City.

This rezone provides an opportunity to accommodate more jobs and multi-family dwelling units in an area not immediately adjacent to existing single-family neighborhoods and in close proximity to services and transportation.

In summary, staff concludes that the proposed zoning change will benefit the community.

## **III. 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 and recommended zoning is consistent with existing and future land use patterns identified in the Comprehensive Plan.
- 3. Housing / Employment Targets-** The current residential density of 6.6 dwelling units per acre on one of the sites indicates the site is underutilized per the density guidelines listed in the Comprehensive Plan for the *Mixed Use* land use designation. By changing the zoning to Community Business, the proposal can the City of Shoreline in meeting employment targets as well as housing targets established by King County to meet requirements of the Growth Management Act.
- 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.

#### **IV. PROPOSED PLANNING COMMISSION FINDINGS AND DETERMINATIONS**

##### **Summary-**

Following the public hearing and deliberation on the request to change the zoning designation of two parcels totaling 13,727 square feet at 18501 and 18511 Linden Ave N, 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**

##### **Project Description-**

- 1.1 Rezone the subject parcels from Office (O) and R-48 (Residential 48 units per acre) to Community Business on 18501 and 18511 Linden Ave n for future development opportunities.
- 1.2 Site Address: 18501 and 18511 Linden Avenue N.
- 1.3 Parcel Number: 7283900302 and 7283900303
- 1.4 Zoning: Office and R-48
- 1.5 The property at 18501 Linden Ave N has a land use designation of *Community Business* and the property at 18511 Linden Ave N has a land use designation of *Mixed Use* identified on the City of Shoreline's Comprehensive Plan Land Use Map. Community Business zoning is consistent with the Community Business and Mixed Use land use designations.

##### **Procedural History-**

- 2.1 Public hearing held by the Planning Commission: January 4<sup>th</sup>, 2007
- 2.2 Notice of Public Hearing and SEPA Determination of Nonsignificance: October 12<sup>th</sup>, 2006
- 2.3 End of 14 day Public Comment Period: October 5<sup>th</sup>, 2006
- 2.4 Notice of Application with Optional DNS: September 21<sup>st</sup>, 2006
- 2.5 Complete Application Date: September 21<sup>st</sup>, 2006
- 2.6 Application Date: August 31<sup>st</sup>, 2006
- 2.7 Neighborhood meeting Date: July 31<sup>st</sup>, 2006

**Public Comment-**

*The following individuals participated in Neighborhood Meetings:*

Four people attended the required Neighborhood Meeting. General comments included wanting to see more redevelopment and mixed-use buildings and wanting more condos in the area.

*Written Comments have been received from:*

Two letters were received in response to the standard notice procedures for this application and included concerns about ample customer parking, traffic, pedestrian safety, commercial zoning on the west side of Linden and commercial uses in a residential area.

**SEPA Determination-**

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 non-significance was issued on October 12<sup>th</sup>, 2006.

**Consistency –**

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).

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.

**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.

The Planning Commission has the following options for the application:

1. Adopt staff's recommendation to rezone the 18501 and 18511 Linden Avenue N (parcel numbers 7283900303 and 7283900303) from Office and R-48 to Community Business based on findings presented in this staff report.
2. Adopt the applicant's proposal to rezone the sites from Office and R-48 to Regional Business based on specific findings of the Planning Commission,
3. Recommend denial of the rezone application. The existing Office and R-48 zoning remains based on specific findings made by the Planning Commission.

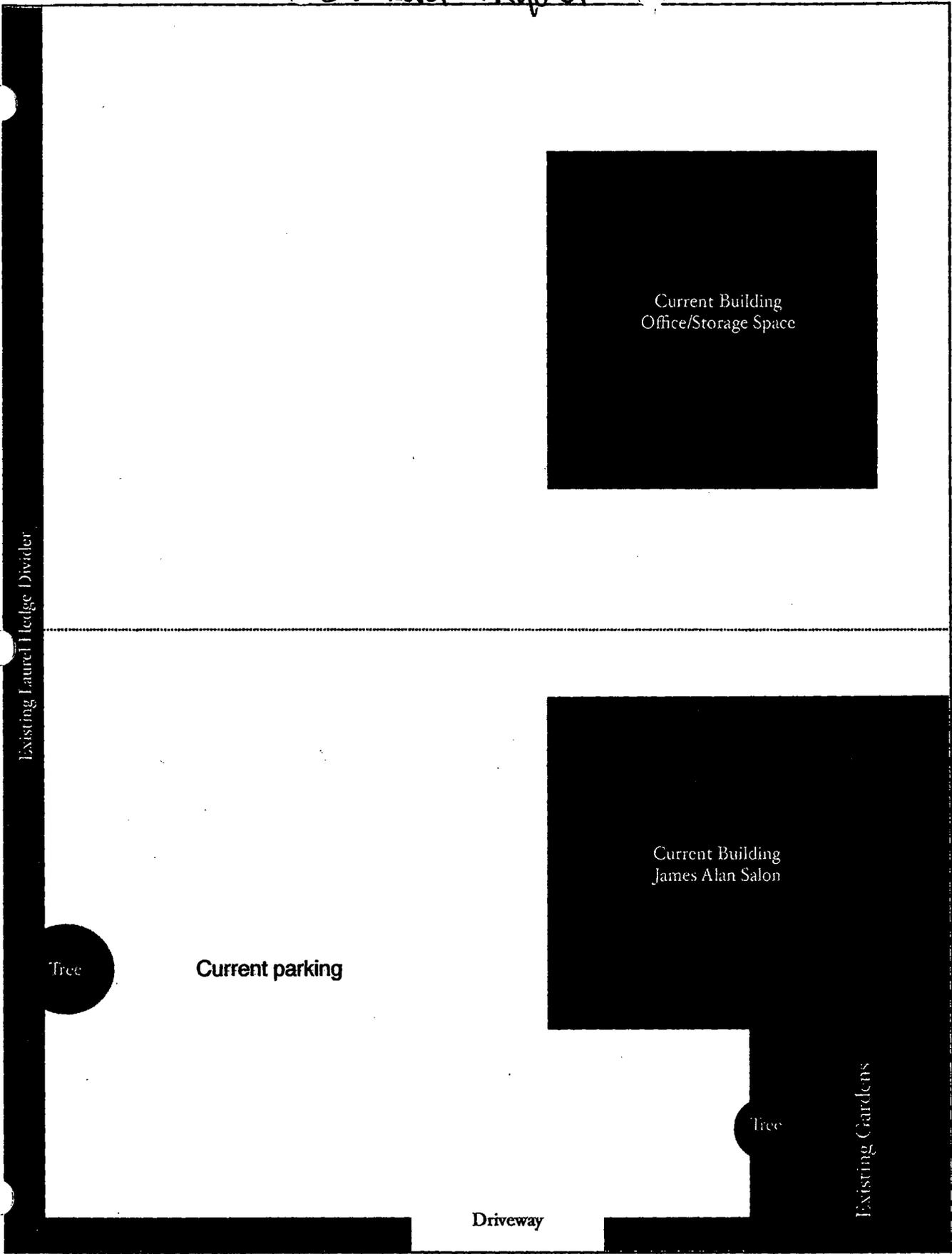
#### **VI. PRELIMINARY STAFF RECOMMENDATION**

Staff recommends that the Planning Commission move to recommend to the City Council that Community Business zoning be adopted for the properties located at 18501 and 18511 Linden Ave N. (parcel numbers 7283900303 and 7283900303). 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: Existing Condition Site Plan
- Attachment 2: Vicinity Map with Zoning Designations
- Attachment 3: Vicinity Map with Comprehensive Plan Designations
- Attachment 4: Public Comment Letters

*Crescent layout*

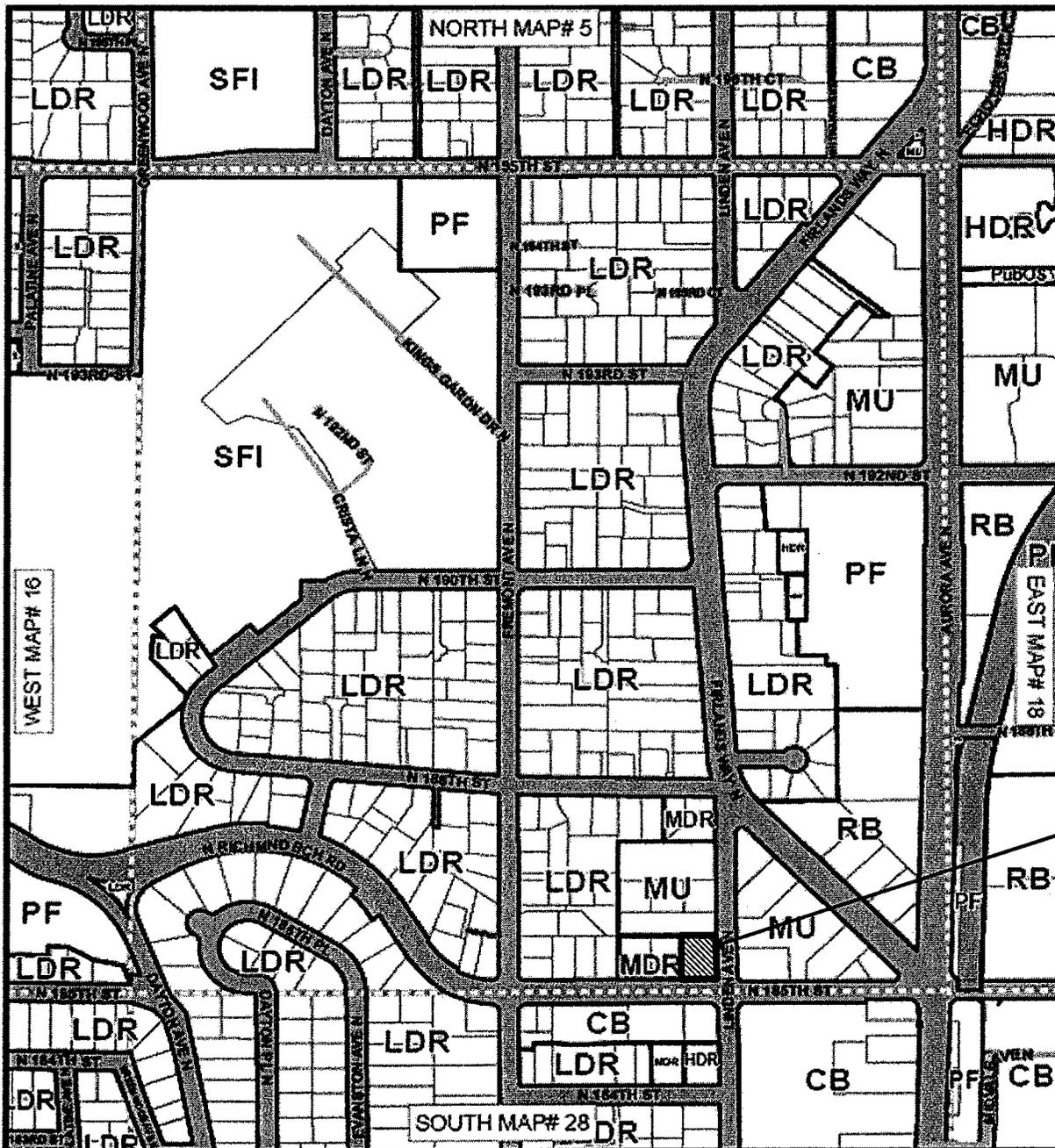


18511 Linden Ave N

18501 Linden Ave N

Existing Frontage Improvements





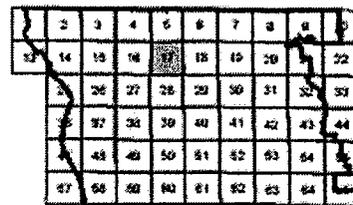
SITE

**CITY OF SHORELINE COMPREHENSIVE PLAN**

**LAND USE MAP**

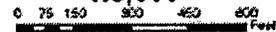
**Land Use Designation Legend**

- |                                     |                                   |
|-------------------------------------|-----------------------------------|
| BaSSA Ballinager Special Study Area | PF Public Facility                |
| BrSSA Briarcrest Special Study Area | PSSA Paramount Special Study Area |
| CB Community Business               | PrOS Private Open Space           |
| HDR High Density Residential        | PubOS Public Open Space           |
| LDR Low Density Residential         | RB Regional Business              |
| MDR Medium Density Residential      | SFI Single Family Institution     |
| MU Mixed Use                        | SSA Special Study Area            |
| NCBD North City Business District   |                                   |



**MAP # 17**

1:3,600



**Feature Legend**

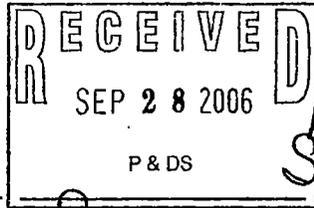
- |                  |                    |
|------------------|--------------------|
| - Map Tile Lines | - Unclassified ROW |
| - City Boundary  | - Parcel Line      |

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

Representation of official Comprehensive Plan land use map adopted by City Ordinance No. 292. Shows amendments through June 31, 2008.



SW1/4-S6-T26N-R4 E



8546 Fremont Ave. North  
Shakeline, Washington  
98133-6821

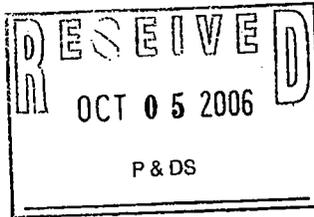
Mr. Steven Szafran  
Planning and Development Services  
17544 Midvale Avenue N.  
Shakeline, Washington, 98133-4921

Dear Sir[s]:

Project number #201570 has several concerns for one who lives around the corner from 18501 and 18511 Linden Ave. N. :

1. Traffic : the new rezone promises heavy increases around this (small) corner of automobile traffic
2. Parking : will the new commercial businesses have adequate parking?

Currently there is only on-street parking which heavily impacts homeowners and the Jukela apartments already.



October 3, 2006

Planning and Development Services  
17544 Midvale Avenue N.  
Shoreline, WA 98133

Dear Steven Szafran and Planning Department:

The rezone application #201570 should not be granted by your department. The Shoreline Comprehensive plan will be adversely effected by this proposed rezone. The comp. plan has clear borders for the classification of "regional business". The west side of Linden Avenue was never intended to be rezoned into this category as I understand the intent of RB zoning described in the comp. plan. Residential properties face Linden Avenue on the west side. New residences have been constructed on 182nd just west of Linden Avenue. Linden is the clear dividing line between residential and regional business uses such as Fred Meyer. The dental office on 182nd is zoned for that location due to the contamination from the auto maintenance and fuel business that was located on that site historically. It is my understanding that residential property use was not appropriate on that site due to long term contamination of the soil. On the west side of Linden Avenue the phone utility station now belonging to Verizon has been the only commercial historic use besides the more recent hair salon office on 185th. By observation alone city planners will see that the primary property use on the west side of Linden Avenue from 175th to 188th is residential.

*MU  
&  
CB*

*S. 185th  
CP of LDR!*

*? -> Comp Plan?*

As I understand it a form of staged zoning west of Aurora would direct future development. To my recollection the Comprehensive Plan has not been amended to change this direction. The current designation (R48) at the proposed project location follows the step down zoning plan. Other apartments exist on the west side of Linden. The two locations 18501 and 18511 appear to be too small for the concept of regional business. The current office use is barely appropriate because employees' parking blocks pedestrian access to the west side of Linden Avenue during business hours at the James Alan Salon. If the current business cannot provide adequate parking how does the city believe that adequate parking will be available at the zoning of regional business?

*1998 & 2001  
- WE DON'T  
HAVE MIN.  
PARCEL SIZES*

*YES THEY DO. NEED 8, HAVE 9*

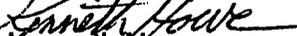
Linden Avenue is not designated <sup>A LOCAL STREET</sup> as an arterial so the 18511 Linden property should not be accepted as part of this proposal. Regional business is located on arterials everywhere else in Shoreline. With Aurora designated as the arterial there is no need to change the designation of Linden Avenue that ends at 175th to an arterial. The street is already stressed with cut through traffic avoiding Aurora and extra vehicles from apartments located along the street. Linden Avenue is a unique location in the city because R-6 zoning exists on the west side and RB is designated on the east side. Locations like this require sensitive planning not "spot zoning". If city planners will observe the relationship of residential and business use along 45th street through Wallingford in Seattle they will see what is necessary in Shoreline. The rear of business locations such as the Wallingford Center, QFC, and The Guild 45th theater are across the street from residences and small apartments. Traffic circles on the residential streets restrict the business traffic to 45th. The west side of Linden Avenue is not the appropriate location for any expansion of RB zoning.

The need for an expansion of RB zoning does not seem to be justified. The Aurora corridor has many properties available for development or redevelopment. The Discount Tire store on 200th and Aurora is evidence that new commercial ventures can still find locations on Aurora. In the notice sent to my home from your office no justification was given

for this rezone application. When the fire station moved near our home a detailed justification was given to our neighborhood of why that location was necessary for public safety. My understanding of the Shoreline Comprehensive plan is that zoning changes are not granted just because an owner has thought of a more profitable use for his property. The entire purpose for zoning and comprehensive planning appears to be overturned in this application.

I strongly urge the planning department and planning commission to deny this application. The precedent set by approving this "spot zoning" proposal is something that most citizens would not agree to if they knew this was occurring in their neighborhood.

Thank you for your consideration,

  
Kenneth Howe  
745 N. 184th Street  
Shoreline, WA 98133

Name	Address	Comments
CHRISTOPHER JOHNS	638 NW 181 COURT	LIKE TO SEE SOME MULTI-USE SO I CAN LIST THE CONDO'S
Cayce Johns	638 NW 181 COURT	hi matthew!
Jeanne Monger	1832 N 190 <sup>th</sup> Shoreline WA 98133	We like the concept of improving the corner of 185 <sup>th</sup> + Linden. We would like to see property rezoned
LARRY MONGER	1832 N 190 <sup>th</sup> SHORELINE WA 98133	I LIKE THE REZONE PLAN.

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

January 4, 2007  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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### COMMISSIONERS PRESENT

Chair Piro (arrived at 7:20 p.m.)  
Vice Chair Kuboi  
Commissioner Broili  
Commissioner Hall  
Commissioner Harris  
Commissioner McClelland  
Commissioner Phisuthikul  
Commissioner Pyle  
Commissioner Wagner

### STAFF PRESENT

Joe Tovar, Director, Planning & Development Services  
Steve Cohn, Senior Planner, Planning & Development Services  
Steve Szafran, Planner II, Planning & Development Services  
Flannary Collins, Assistant City Attorney  
Jessica Simulcik Smith, Planning Commission Clerk

### CALL TO ORDER

Vice Chair Kuboi 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: Vice Chair Kuboi, Commissioners Broili, Hall, Harris, McClelland, Phisuthikul, Pyle and Wagner. Chair Piro arrived at 7:20 p.m.

### APPROVAL OF AGENDA

The Director's Report was moved to after the public hearing. The remainder of the agenda was approved as presented.

### APPROVAL OF MINUTES

The minutes of December 14, 2006 were approved as presented.

## **GENERAL PUBLIC COMMENT**

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

## **PUBLIC HEARING ON SITE-SPECIFIC REZONE AT 18501 LINDEN AVENUE (PROJECT NUMBER 201570)**

Vice Chair Kuboi reviewed the rules and procedures for the public hearing. He reminded the Commission of the Rules of the Appearance of Fairness Laws and invited them to disclose any communications they may have received concerning the subject of the hearing outside of the hearing. Commissioner Hall advised that at the last Commission meeting, he spoke briefly with the project proponent's representative about why they were being asked to consider a rezone application for property that was recently rezoned. However, he realized that it was inappropriate for him to talk about the quasi-judicial issue outside of the hearing and the conversation stopped before any in-depth discussion occurred. None of the Commissioners, staff or public expressed a concern about Commissioner Hall's participation in the public hearing.

Mr. Tovar introduced Flannary Collins, Assistant City Attorney, who was present to help the Commission and staff prepare a legally-sound set of findings and conclusions for the quasi-judicial rezone application. She would also be available to answer the Commission's legal questions.

## **Staff Overview and Presentation of Preliminary Staff Recommendation**

Mr. Szafran presented the staff report to the Commission. He provided a Comprehensive Plan Map, indicating the location of the two subject parcels. He noted that the southern parcel has a current land use designation of Community Business (CB) and the northern parcel is currently designated as Mixed-Use (MU). The properties are surrounded by MU to the north and east, Medium-Density Residential (MDR) to the west, and CB to the south. Next, he referred to a zoning map that indicates the two properties have different zoning: the southern property is currently zoned Office (O), and the property directly to the north is zoned R-48. The property to the west is currently zoned R-12, and properties to the east are currently zoned as Regional Business (RB), O and R-48. The zoning to the south is currently R-18, R-12, and O. Mr. Szafran reviewed the existing site plan for the subject properties, and he also provided photographs to illustrate adjacent development to the north, south, east and west.

Mr. Szafran advised that the applicant originally proposed to change the existing zoning of R-48 and Office (O) to Regional Business (RB). However, the staff is proposing that the parcels be rezoned to Community Business (CB). He briefly explained that in an RB zone there would be no maximum residential density limitation, and a 65-foot height limit would be allowed. A CB zone would have a 60-foot height limit, and the density would allow only 15-units to be constructed. In addition, the range of land uses allowed in an RB zone would be more intense. Both the RB and CB zones would allow a mix of commercial and residential uses. He explained that the Office zone would allow a 50-foot height limit and a less-intense range of land uses. He noted that, based with the current R-48 and O zoning, the applicant would be allowed to construct up to 11 units with a maximum height limit of 50 feet. The commercial portion of the development would be limited to the portion of the property that is zoned O.

Mr. Szafran explained that the rezone to CB would be consistent with the MU and CB land use designations and would provide a transition from Aurora Avenue North to the west. It would also provide services for surrounding neighborhoods and place the higher-density uses away from the single-family neighborhoods and along the arterial street. In addition, the subject property falls within the proposed Town Center Study Area. He said that staff's preliminary recommendation is that the Commission recommend approval of CB zoning for properties located at 18501 and 18511 Linden Avenue North.

### **Applicant Testimony**

Jim Abbot, representative for applicants, said the applicants have agreed with the staff's recommendation to rezone the two subject parcels to CB, which would limit the height to 60 feet and allow a less intensive range of land uses. However, they are concerned that limiting the properties to a maximum of 15 dwelling units would be too restrictive. He explained that with a 60-foot height restriction, the applicant would be able to construct up to four floors of residential space over the James Alan Salon. If they are restricted to 15 units, they would likely end up being quite large (1,500 to 1,800 square feet) condominium units. They would prefer to construct some smaller units (about 1,000 square feet) that could be used as apartments. He said that while they do not oppose the staff's recommendation to rezone the properties to CB, they are asking that the Commission consider the option of altering the number of dwelling units allowed on the site.

Mr. Abbot reiterated that the applicant is willing to be bound by all of the criteria associated with the CB zoning designation, except for the restriction on the number of dwelling units. He suggested that a greater number of small units would be beneficial to the City and would comply with the Growth Management Act Requirements and the City's Comprehensive Plan Policies. He recalled that when he developed the Gateway Project at 185<sup>th</sup> and Aurora Avenue North, which is very close to the subject property, the Council expressed concern that they were not providing any dwelling units. They were unable to provide residential space because of the high water table and the inability to have underground parking, but that is not the case with the subject property. He summarized that the applicant would like to have five or six units per floor of residential space instead of three or four. He asked that the Commission consider a contract rezone or concomitant agreement that would allow them to have more dwelling units but still stay within the CB zoning designation requirements.

Chair Piro arrived at the meeting at 7:20 p.m. and stepped in as chair of the meeting.

### **Questions by the Commission to Staff and Applicant**

Commissioner Phisuthikul asked how many dwelling units the applicant would propose for the subject properties. Mr. Abbot answered that the applicant would agree to limit the development to 25 units or less on the four floors. This would allow them to construct more small units rather than fewer large condominium units. Commissioner Phisuthikul asked if the applicant would agree to limit the ownership of the units to only rental if the development were allowed to have up to 25 units. Mr. Abbot

said he does not know the applicants' future plans, but their current desire is to lease out the units as an investment rather than selling them as condominiums.

Vice Chair Kuboi asked if the applicant approached the staff previously regarding the concept of a contract rezone. Mr. Szafran answered that staff was not previously notified of the applicants' desire for a contract rezone. He explained that if the Commission were to recommend approval of the CB zone as proposed, the properties would be limited to only 15 dwelling units. Mr. Abbot advised that the applicant has retained an architect to start the preliminary design work, and their initial discussions have centered around one level of underground parking, the salon on the ground floor and then four floors of housing above. However, no site plans have been submitted to the City at this point. The applicants chose to move forward with the public hearing for the proposed CB zone because they were accepting of all of the CB zoning criteria except the 15-unit limitation. They were hoping to find a creative way to increase housing density, but still work within the staff's recommendation.

Mr. Tovar recalled that a number of rezones have come before the Commission for review over the past year. While questions are often asked about the proposed site plans, it is important to understand that once a zoning change has occurred, future applicants would be allowed to build based on whatever rights are allowed under that zone. On a number of occasions, the City Attorney has cautioned against conditioning rezone applications. Mr. Tovar pointed out that, currently, the City's zoning categories are very detailed as far as density. He also noted that later in the meeting he would talk with the Commission about the concept of form-based zoning, which moves away from being fixated on density, ownership, etc. Instead, a form-based code would simply regulate bulk, form, shape, character, parking, landscaping, etc. and allow the other issues to be addressed based on the market demands.

Mr. Tovar summarized that based on the City's current zoning code, staff does not recommend a contract rezone approach at this time. However, the Commission could consider RB zoning, which is what the applicants' originally proposed. The applicants would then be able to construct a development with 25 dwelling units or less, which is fewer than the RB zoning designation would allow. Mr. Abbot agreed that if the Commission is unable to consider a contract rezone for the subject parcels, they could consider the applicants' original proposal for RB zoning. Again, he indicated that the applicants are willing to be bound by a subsequent contract rezone or concomitant agreement that would limit the development to 25 units with a 60-foot height restriction.

Commissioner Wagner asked at what point a traffic impact study would be required for the subject property. She said she could envision a situation where small units could be constructed bit by bit, none of which individually would require a traffic impact study. Mr. Szafran answered that staff would determine whether or not a traffic impact study would be required for the subject property at the time a building permit application is submitted. No construction would be allowed on the site until a site development permit has been approved.

Mr. Tovar said staff talked to the City Attorney about whether it would be possible to condition approval of the RB zone, and his answer was "no". Based on this direction, the Commission has the option of choosing either the CB or the RB zoning designations, only. They cannot condition either of these designations. He said that rather than recommending approval of the CB zoning designation with

conditions, staff would be more comfortable recommending approval of the RB zoning designation with no conditions.

Flannery Collins, Assistant City Attorney, explained that certain standards were set in the Comprehensive Plan for a reason. Adding conditions for some rezone applications could result in situations where applicants expect the City to place conditions on rezone applications, using a combination of two zones to meet their needs. She advised that the Revised Code of Washington indicates that cities must make these choices when reviewing comprehensive plans and zoning regulations and not on a case-by-case basis. She reminded the Commission that the City Attorney has cautioned against the use of contract rezones.

Commissioner Hall recalled that, in the past, the Commission has been informed that with any quasi-judicial rezone, they have the authority to recommend approval, recommend denial, or recommend approval with conditions. He asked if it is now the City Attorney's position that the Commission does not have the legal authority to approve a rezone with conditions. Ms. Collins said she does not believe the Commission would be prohibited from placing conditions on a rezone application, but the intent of the Revised Code of Washington and the City's development regulations is that the Commission won't add conditions. She noted that the existing development regulations went through a public process and careful staff and Commission analysis before they were adopted. Commissioner Hall pointed out that in previous cases, the City Attorney has been involved in negotiations with applicants to bring forth conditions as part of the staff's recommendation. He asked if this new direction is legal interpretation or a change in policy. Ms. Collins she cannot comment on previous applications that have come before the Commission, but the City Attorney is now cautioning against the use of contract rezones.

Commissioner McClelland suggested that a contract rezone would be different than conditions being placed on a rezone application. Mr. Tovar said the contract rezone concept has been around for decades and has been utilized by various jurisdictions throughout the region. However, the Growth Management Act requires that a city's comprehensive plan and development regulations (including the zoning map) be consistent. Whether it is called a contract rezone or a conditioned permit, it is a fundamentally flawed concept since the development regulations should reflect what the Comprehensive Plan says. His professional recommendation would be to move away from unpredictability and the ad hoc incremental case-by-case contract rezone approach. Instead, they should take the time and effort to make the regulations say what they mean.

Commissioner Broili asked about the timeline of the applicants' project. Mr. Abbot said the applicants submitted the rezone application early in 2006, and their intent is to move the project forward as quickly as possible. Commissioner Broili asked about the expected timeline for the adoption of a more form-based zoning code. Mr. Tovar answered, that later in the meeting, staff would present the concept of creating a more form-based code for a specific part of the City. Adopting form-based zoning that could be applied city-wide would take significantly longer to accomplish. However, the Commission could certainly discuss this option at their joint-meeting with the City Council in April. He noted that the City Council has already signaled their interest in a form-based code approach, and staff is preparing a proposal to apply the concept to the South Aurora Avenue Triangle.

Commissioner Hall asked how many units would be allowed to be developed on the subject property based on the City's highest residential zone of R-48. Mr. Szafran answered that an R-48 zone would allow a maximum of 15 units. Commissioner Hall said he would like more specific information about what the previous zoning and land use designation was. He also asked staff to provide more information about the extent to which neighboring cities and counties use conditions or contract rezones, especially those jurisdictions that are similar to Shoreline in size. He would also like examples of how both planning commissions and hearing examiners handle quasi-judicial matters. He said it is important that the Commission has a clear understanding of how they can effectively use their power to promote development that is consistent with the City's Comprehensive Plan Policies, and at the same time, safeguard the interest of the neighbors. He agreed with Mr. Tovar that the City's current zoning regulations limit the flexibility for applicants to do creative design. However, he recalled that during the cottage housing debate, they heard that the citizens would not support density bonuses. He suggested that when considering the option of form-based zoning, they should also consider the elements of the existing use-based code that some members of the community have passionately testified about in the past.

Chair Piro asked what the new timeframe would be if they were to postpone their action until staff could provide the additional information requested by Commissioner Hall. Mr. Cohn reminded the Commission that the January 18<sup>th</sup> meeting was cancelled, but staff could have the additional information available for the Commission's continued deliberation on February 1<sup>st</sup>. Mr. Abbot indicated that the applicants would support a Commission decision to continue the hearing to February 1<sup>st</sup>.

Mr. Abbot pointed out that the term "contract rezone" is defined in the City's development code, so he assumed the concept could be utilized by the Commission. Mr. Tovar said he would ask the City Attorney to provide written clarification regarding his position on contract rezones. Mr. Abbot pointed out that he has been involved with contract rezone applications in the cities of Edmonds, Redmond and Seattle. If contract rezones are not the right approach in Shoreline, he asked that staff provide additional direction to the applicants on how to address their concern.

Commissioner Harris asked Mr. Tovar to reiterate his previous statement regarding the applicants' original application for RB zoning. Mr. Tovar said staff would be willing to support the applicants' original proposal for RB zoning. While the applicant has verbally offered to limit the development to 25 units or less, staff is not confident it would be legal for the City to impose this condition based on the existing zoning regulations. Mr. Abbot said the applicants are prepared to offer a written agreement, if the appropriate vehicle for doing so could be identified.

Commissioner Harris asked if staff believes the smaller rental units proposed by the applicant would benefit the City more than larger condominium units. Mr. Tovar suggested that the Comprehensive Housing Strategy Committee would consider this subject as one aspect of their discussion. He noted, however, that as the market demands changes, the City would not really have control over whether or not the units are converted to condominiums at a later date.

Commissioner Pyle referred to Attachments 2 and 3 and recalled some history of these parcels. The Comprehensive Plan Amendment occurred in 2005 and changed the designation on the northern site from HDR (High Density Residential) to MU (Mixed Use).

Ms. Collins said that while it is not the City Attorney's intent to prohibit contract rezones, he is cautioning that they are not wise. The Comprehensive Plan policies and the Development Code regulations should be consistent and clearly indicate what is and is not allowed.

#### **Public Testimony or Comment**

There was no one in the audience who expressed a desire to participate in the public hearing.

#### **Presentation of Final Staff Recommendation**

Mr. Tovar distributed the draft findings and conclusions that were prepared by Ms. Collins. He advised that the Commission could review the document and take action tonight, or they could carry their deliberation over to the February 1<sup>st</sup> meeting. He advised that staff's final recommendation is that the Commission recommend approval of the more permissive zoning of RB, as originally requested by the applicants, with the understanding that the applicants would look for a method to provide some type of written commitment to limit what could be done on the property beyond what the zoning code would require. In the meantime, staff could obtain information from other jurisdictions regarding their use of contract rezones. Staff could also request further direction and feedback from the City Attorney.

#### **Final Questions by the Commission and Commission Deliberation**

**COMMISSIONER PYLE MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE REQUEST TO REZONE BOTH PARCELS AT 18511 AND 18501 LINDEN AVENUE FROM OFFICE (O) AND R-48 TO REGIONAL BUSINESS (RB). COMMISSIONER MCCLELLAND SECONDED THE MOTION.**

Commissioner Pyle said it appears the intent of the current property owners is to limit the number of units to 25. He pointed out that it is difficult to determine what market forces will do in the future. They might want to add more office space in the future, or change the configuration of all of the uses. The proposed zone would allow the property owners to make changes based on market pressures.

Commissioner McClelland said she believes it would be appropriate to allow more dwelling units on the site. The applicant has made a good faith effort to voluntarily limit the number to 25 or fewer. She suggested that if the Commission had known what the applicants were proposing for the subject property prior to the meeting, they would have reached this same conclusion. She did not think the additional information to be provided by staff in February would change the Commission's position. Therefore, she is ready to move forward with a recommendation of approval.

Commissioner Broili said that because situations often change after a rezone application has been approved, he would not be in favor of a contract rezone or any other type of conditions. He agreed with

the City Attorney's caution against placing conditions on rezone applications. If changes are necessary, they should be made to the zoning criteria, instead. He said he is anxious to learn more about the form-based zoning concept, which would provide opportunities for flexibility. He said he would support the proposed RB zoning designation, since it would give the applicants maximum flexibility and would be consistent with adjacent properties given their proximity to Aurora Avenue North and 185<sup>th</sup> Street.

Commissioner Hall said that although he could support the development concept put forth by the applicant, he would not support the proposed motion to rezone the property to RB at this time. He referred to the code criteria related to rezone applications and made the following observations:

- **Criteria 1: The rezone is consistent with the Comprehensive Plan.** The rezone proposal would be consistent with the Comprehensive Plan.
- **Criteria 2: The rezone will not adversely affect the public health, safety, or general welfare.** The letter from Mr. Howe found in Attachment 4 describes concerns about certain things the zoning code has generally protected. The Commission has also discussed the concept of step down zoning that gradually goes from the most intense uses near the urban centers to less intensive residential uses. The staff's recommendation to rezone the subject properties to RB could lead to developments of much higher density than would otherwise be seen in this area, and this would result in higher traffic impacts, as well. Thus, the rezone would adversely impact the general welfare of the community.
- **Criteria 3: The rezone is warranted in order to achieve consistency with the Comprehensive Plan.** In order to make this criterion more meaningful, the Commission must carefully consider whether the rezone would be warranted. The Commission understands that they want to provide various housing options for the community, and smaller rental apartment units would be terrific. However, they must consider what would be allowed in the RB zone and not just what the applicant is proposing. There is no evidence to indicate a need to rezone the properties to RB to achieve consistency with the Comprehensive Plan. Therefore, the current zoning designation is already consistent.
- **Criteria 5: The rezone has merit and value for the community.** While the ability to get more high-density housing on the subject property would have merit, the proposed RB zone would overreach this goal. The highest density in the vicinity of the subject property is R-48. An RB zoning designation would allow the property owner the potential of constructing a 65-foot tall purely residential building with approximately 35 units.

Commissioner Pyle pointed out that, regardless of whether the use is office, residential or retail, the developer would be able to construct a building with an envelope that would meet the same limits and design requirements as a residential building. Therefore, the perceived impact to the community would be the same whether there are 35 residential units or a mixture of office and retail. If the Commission were to consider the intensity of daytime use versus evening and morning use, a building with office and retail uses would have a much higher impact to the residential community than a residential use.

Commissioner Hall referred to Page 33 of the Staff Report, which shows that the bulk regulations would differ not only in density, but also in height, setbacks and lot coverage. He reminded the Commission that density has been a huge concern in the community, and the Commission has heard a lot of testimony

regarding the issue. He expressed his belief that the density allowed in an RB zone is significantly different than what would be allowed in a CB zone.

Commissioner McClelland pointed out that the subject property is located in an area where the City wants to encourage higher densities because it is near bus routes and assessable to the commercial areas. People who live in this area do not need cars because all of the necessary services are provided close by. She expressed her belief that there would be significant change in the area in the future as zoning changes are made to implement the Comprehensive Plan land use designations.

Commissioner Phisuthikul agreed there is a lot of difference between the RB and CB zones. He expressed his concern that, without any facts to support the change, staff has altered their recommendation from CB to RB. He expressed his concern that the impacts to the surrounding properties would be greater if the property were zoned RB.

Commissioner Wagner agreed with Commissioner Hall's concerns. She reiterated that she cares largely about traffic impacts. She said she has driven on Linden Avenue several times, and she agrees with the concerns raised in the two letters submitted prior to the meeting expressing opposition. She said she would not feel comfortable with a rezone that would allow a significant increase in the number of residential units in an area where traffic has already been significantly impacted. She said she doesn't care how many units are built on the subject property, but is more concerned about the traffic impacts associated with the development. Without this additional information, she would not be able to support the rezone application.

Commissioner Hall pointed out that the primary access for the site would likely be from 185<sup>th</sup>, and he would have concerns about left-turning traffic onto 185<sup>th</sup> which is so close to Linden Avenue. He also noted that the applicant's proposal to develop 25 units on .3 acres would be a density of 83 dwelling units per acre. He suggested this might be stretching what the community would be comfortable with for this area. Commissioner Broili said his understanding is that the applicant intends to develop the whole site with underground parking, which might preclude access from 185<sup>th</sup>. Instead, the access could just as easily come from Linden Avenue.

Chair Piro expressed his concern about going from the proposed CB zoning to RB zoning, which would more than double the density of the subject property. He suggested the Commission consider some other option that would allow them to pursue a project that would be somewhere in between to satisfy some of the step down zoning considerations raised by Commissioner Hall. However, given that the location of the subject property is in an area where the City is trying to change the character to be more transit oriented, he would likely support the motion on the floor.

Commissioner Pyle asked what types of activities would be allowed under the RB zone that would not be allowed under the CB zone. Mr. Szafran answered that the allowed land uses would be almost the same, except construction, warehouses, dog kennels and auto rentals would not be allowed. However, the lot coverage requirements would be more restrictive in an RB zone. Commissioner Broili pointed out that a mixed-use land use designation would allow almost any type of use. Mr. Cohn agreed that a mixed-use land use designation would allow all zoning categories. He emphasized that "mixed use" is a

land use designation and not a zoning designation. The zoning designation would ultimately control the type of uses allowed on a property.

**COMMISSIONER HALL MOVED TO LAY THE PENDING MOTION ON THE TABLE AND BRING IT BACK AT THE COMMISSION'S FEBRUARY 1<sup>ST</sup> MEETING. COMMISSIONER HARRIS SECONDED THE MOTION.**

Commissioner Hall said that, as it stands now, he would vote against the motion. He said he would only support a rezone to Regional Business if a solution could be crafted by the City Attorney that would allow for certain conditions. He said he would prefer the Commission come up with a recommendation that could be supported by most if not all of the Commissioners rather than forwarding a split-vote recommendation to the City Council. Commissioner Harris agreed. He said he would not feel comfortable supporting an unrestricted rezone to RB. He said he would be willing to support a rezone to CB, but he would rather table the issue until the February 1<sup>st</sup> meeting.

Commissioner Pyle summarized that it appears that the Commission is interested in considering a rezone to RB, but they want to be able to consider limiting the number of units and the height. However, regardless of whether the height and number of units is limited, a property owner would still be able to build the same size of building, minus the height. Therefore, the perceived impact would be the same. The same amount of square footage of office or retail space would be allowed, so limiting the number of units would simply limit the number of vehicle trips related to residential units in the building. The perceived intensity of the scale and volume of the building would not change unless the setback and lot coverage requirements were changed to be similar to the CB zone.

Commissioner Phisuthikul pointed out that there is a difference in the setback, bulk and lot coverage requirements between the CB and RB zones. Therefore, the RB zone would allow a larger mass of building than would the CB zone. Commissioner Pyle advised that Commissioner Hall is suggesting the Commission consider a rezone to RB, with a limitation on the number of units. However, there are other forces that impact the bulk and scale of a building. Limiting the number of units to 25 and the height to 60 feet would not significantly change the scale of development that could be built because the building envelope, aside from the height, would still be the same.

Commissioner Phisuthikul suggested the Commission consider another alternative that would rezone the property to CB, but allow up to 25 units on the site. This would require the development to meet all of the CB zone requirements, so the mass of the building would perhaps be smaller. He emphasized that rezoning to CB and allowing up to 25 units is entirely different than rezoning to RB and limiting the number of units to 25. Mr. Szafran pointed out that the RB zone requires greater setbacks than the CB zone. Mr. Tovar expressed his belief that the City Attorney would most likely determine that it would be better to rezone the property to RB and limit the number of units and the height. It is far less likely he would recommend they rezone to CB but allow an exception for more units on the subject property than the CB zone would typically allow. Commissioner Broili said he would be opposed to altering or coming up with provisions to change the CB or RB zoning standards to meet the needs of this one property owner. He supports the City Attorney's advice to avoid contract or conditioned rezones.

If the Commission takes action to rezone the subject property to RB with no conditions, Vice Chair Kuboi asked if this would set a precedent for other similar applications. In other words, would a future applicant be able to cite this situation when requesting a rezone to something that is greater than the desired zone in order to accommodate their development desires. Ms. Collins answered that an applicant could certainly point to this particular application, but future applications would still be limited by the Comprehensive Plan. Commissioner Broilli said that each application must be considered on a case-by-case basis. He said he doesn't see that the Commission's action on this item would set a precedent. Ms. Collins agreed that a future applicant could point to this application as an example, but the Commission would still be required to make their decision based on the facts and the rezone criteria.

Commissioner Wagner suggested that perhaps the applicant could consider the option of providing step down zoning. For instance, the lot that is currently zoned office could be CB and the next lot could be something else. Perhaps there are alternative designs that would allow the applicant to meet their density requirements, but also address some of the issues raised by the Commission.

**THE MOTION TO TABLE THE PENDING MOTION UNTIL FEBRUARY 1<sup>ST</sup> CARRIED 5-4, WITH COMMISSIONER HALL, COMMISSIONER HARRIS, COMMISSIONER WAGNER, VICE CHAIR KUBOI, AND CHAIR PIRO VOTING IN FAVOR AND COMMISSIONER BROILLI, COMMISSIONER MCCLELLAND, COMMISSIONER PHISUTHIKUL, AND COMMISSIONER PYLE VOTING IN OPPOSITION.**

#### **Closure of the Public Hearing**

The public hearing was continued to February 1st.

#### **Vote by Commission to Recommend Approval, Denial or Modification**

The Commission tabled a recommendation on the proposed rezone application to the February 1<sup>st</sup> meeting.

THE COMMISSION RECESSED AT 8:50 P.M. TO DETERMINE WHETHER OR NOT A MAJORITY VOTE WOULD BE SUFFICIENT TO PASS THE MOTION TO TABLE. THEY RECONVENED THE MEETING AT APPROXIMATELY 9:00 P.M.

Mr. Cohn advised that Roberts Rules of Order states that the motion to table the pending application must be passed by a majority of Commissioners. Chair Piro clarified that the motion to table passed by a vote of 5-4. He said it is his understanding that the Commission would have to make a formal motion to bring the issue back for deliberation at the February 1<sup>st</sup> meeting.

#### **REPORTS OF COMMITTEES AND COMMISSIONERS**

There were no reports from committees or Commissioners.

## **DIRECTOR'S REPORT**

### **Subarea Plan for the South Aurora Triangle**

Mr. Tovar reported that within the next few weeks, staff would present a proposal to the City Council that would authorize them to proceed with a subarea plan for a specific part of the City known as the South Aurora Triangle (bordered by Aurora Avenue to the east, the Shoreline City limits to the south, and the Interurban Trail to the northwest). The intent would be to consider a legislative rezone and form-based code that identifies a land-use designation for the Comprehensive Plan and zoning map district called the "Form-Based Code 1" zone. In this zone, the City would spell out what uses should be allowed and what the residential density limitations should be. At this time, staff is proposing no residential density limitation. While a development would have to fit within the stipulated building envelope and floor area ratio and meet all of the other form constraints and building design standards, the number and size of the residential units would be determined by the market. He noted that if the City Council agrees to move forward with the subarea plan, the issue would come back to the Commission for review sometime in the spring or summer.

### **Proposed Long-Range Planning Work Program**

Mr. Tovar referred the Commission to the schedule outlining the 2007-2008 Long-Range Planning Work Program. The schedule illustrates the timing and actions for the major public policy initiatives (Comprehensive Housing Strategy, Environmentally Sustainable Communities, Aurora Project, and Town Center and Ridgecrest Plans). The schedule also identifies the proposed dates for each of the speaker series events, as well as joint City Council/Planning Commission meeting dates in April and October. He clarified that, contrary to what is shown on the schedule, the ABC Team Meetings would only take place through April. In addition, Tom Boydell has retained the services of a University of Washington Landscape Architect Class to work with him on the Ridgecrest Subarea Plan, and some public meetings and a workshop have already been scheduled. Mr. Cohn added that a Development Forum for the Ridgecrest Subarea Plan has been scheduled for January 18<sup>th</sup>, and a visioning workshop would be conducted on January 24<sup>th</sup>. Planning Commissioners are invited to attend both of these events.

Mr. Tovar pointed out that no dates have been scheduled for future work on the Briarcrest Subarea Plan and Zoning Project. Mr. Cohn indicated staff plans to start these discussions near the end of 2007. He noted that much interest has been expressed about redevelopment opportunities in this special study area. Therefore, it is important to consider the whole area, rather than piece meal. Mr. Tovar said staff may be able to provide some target dates for the Ridgecrest and Briarcrest Subarea Plans prior to the joint City Council/Planning Commission Meeting in April.

Chair Piro noted that the proposed schedule also incorporates periodic joint Planning Commission/Park Board review of the Environmentally Sustainable Community Strategy. Mr. Tovar added that at the joint meetings, staff intends to provide a report from the Parks Department regarding their work on the Urban Forest Management Planning Process. In addition, staff would present a draft Request for Proposals for the consultant they hope to retain to help write the Natural Resource Management Strategies. Staff is currently working to pull together various resources regarding this topic.

Commissioner Hall pointed out that the proposed schedule identifies three different dates for the City Council to adopt Comprehensive Plan amendments. He suggested the schedule be revised to be consistent with the Growth Management Act requirement that limits Comprehensive Plan Amendments to once per year. Mr. Tovar agreed but noted that Comprehensive Plan amendments associated with subarea plans are not limited to just once per year. He also pointed out that, besides regulations and capital budgets, there are other ways to implement strategies.

Mr. Cohn reviewed the upcoming Speaker Series Events. He announced that Mark Hinshaw is scheduled to speak about urban form on February 6<sup>th</sup> (now moved to February 15<sup>th</sup>) and Tom Van Schrader would speak regarding stormwater issues on April 5<sup>th</sup>. Ron Sher is scheduled to speak on the issue of new retail at the May 31<sup>st</sup> event. Commissioner McClelland suggested the Commission consider the option of treating each of the Speaker Series sessions as social events by providing refreshments and an opportunity for attendees to socialize. Mr. Tovar invited the Commissioners to provide their ideas regarding the format of the sessions and how they should be presented to the community. He said citizens have expressed a lot of interest in participating in upcoming issues, and he anticipates a significant attendance at each event.

### **UNFINISHED BUSINESS**

The Commission requested clarification from staff regarding the public notice that would be required as a result of the Commission tabling the rezone application that was considered earlier in the meeting. Mr. Tovar advised that the motion should have indicated that the hearing would continue on February 1<sup>st</sup>. Because they know the three people who were in attendance for the public hearing, staff could contact them to clarify that the public hearing would continue on February 1<sup>st</sup>. Mr. Cohn noted that the motion to table was made in the context of continuing the discussion on February 1<sup>st</sup>. Therefore, it was understood that the application would be brought back before the Commission on February 1<sup>st</sup>; and technically, the hearing would remain open until that time.

Commissioner Broili expressed his concern that the January 18<sup>th</sup> meeting was cancelled. He recalled that the Commission previously agreed that, on those occasions where they didn't have any specific business for the agenda, they would bring forward one of the parking lot issues for consideration. Mr. Tovar pointed out that the next six months would be very meeting intensive for both the Commissioners and staff. When the schedule was prepared, he tried to recognize the already high demand on both staff and Commissioner time.

Commissioner McClelland emphasized the importance of the Commission having a clear understanding of their ability to condition rezone applications before they continue their discussions on February 1<sup>st</sup>. She said she does not want the City to lose the opportunity to condition rezone applications for the benefit of the community. Chair Piro suggested Commissioners forward their questions to staff by January 15<sup>th</sup> so staff could respond before the hearing continues. Mr. Tovar said he would invite both the City Attorney and the Assistant City Attorney to attend the February 1<sup>st</sup> meeting to provide clarification regarding the concept of placing conditions on quasi-judicial rezone applications. He explained that there is a significant difference between a contract rezone or imposing conditions on a

zoning map change and imposing conditions on a permit. When the Commission revisits the CB, RB or other multi-use zones, they could consider the option of requiring a quasi-judicial permit for projects of certain sizes or uses. This would provide an avenue for either the Planning Commission or the Hearing Examiner to impose conditions on a permit subject to specific code criteria.

Commissioner Hall pointed out that the current code allows the Planning Director, at his discretion, to determine whether design review is appropriate. If so, the issue is brought before the Planning Commission for review. However, unless the Planning Director sends a permit application to the Planning Commission for design review, there is no opportunity for a public hearing. On the other hand, a rezone application requires a public hearing. Mr. Tovar suggested that this topic and other design issues could be part of the Commission's discussion regarding the form-based code concept. Mr. Cohn cautioned that when the Commission acts as a design review board, they must operate within a very restrictive framework.

## **NEW BUSINESS**

### **Form-Based Codes and Legislative Area-Wide Rezones**

Mr. Tovar emphasized that staff would not advocate the form-based code concept for any of the single-family residential zones at this time. Instead, staff intends to focus on areas surrounding Aurora Avenue, the town center area, and some of the other commercial districts in the City.

## **ANNOUNCEMENTS**

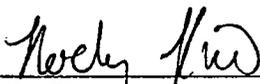
No announcements were provided.

## **AGENDA FOR NEXT MEETING**

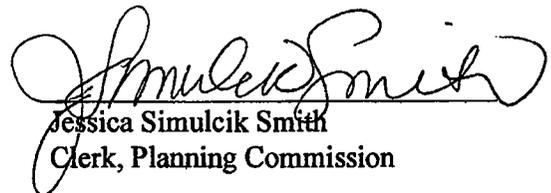
The Commissioners had no additional comments to make regarding the agenda for the next meeting.

## **ADJOURNMENT**

The meeting was adjourned at 9:33 p.m.



Rocky Piro  
Chair, Planning Commission



Jessica Simulcik Smith  
Clerk, Planning Commission

## **CITY OF SHORELINE**

### **SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING**

February 1, 2007  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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#### **COMMISSIONERS PRESENT**

Vice Chair Kuboi  
Commissioner Broili  
Commissioner Hall  
Commissioner Harris  
Commissioner McClelland  
Commissioner Phisuthikul  
Commissioner Pyle  
Commissioner Wagner

#### **STAFF PRESENT**

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

#### **COMMISSIONERS ABSENT**

Chair Piro

#### **CALL TO ORDER**

Vice Chair Kuboi 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: Vice Chair Kuboi, Commissioners Broili, Harris, Phisuthikul, McClelland, Hall, Pyle and Wagner. Chair Piro was excused.

#### **APPROVAL OF AGENDA**

Because there was no one in the audience to provide testimony on Item 7.1, the Commission agreed to place this item after Item 7.2. The Director's Report was moved to after the public hearings.

## APPROVAL OF MINUTES

The minutes of January 4, 2007 were approved as corrected.

## GENERAL PUBLIC COMMENT

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

## CONTINUED PUBLIC HEARING ON SITE-SPECIFIC REZONE AT 18501 LINDEN AVENUE (PROJECT #201570)

Vice Chair Kuboi reviewed that, at the last meeting, the Commission opened and closed the public portion of the hearing, and the intent of the public hearing is to discuss the staff recommendation and develop a Commission recommendation for the rezone proposal. He reviewed the rules and procedures for the continued public hearing and reminded the Commissioners of the Rules of the Appearance of Fairness Laws. He opened the hearing and invited the Commissioners to disclose any communications they may have received concerning the subject of the hearing outside of the hearing. None of the Commissioners indicated ex parte communications. No one from the audience voiced a concern, either.

### Bring Back Tabled Motion

Ms. Simulcik Smith reminded the Commission of the motion currently on the table, which reads as follows:

**COMMISSIONER PYLE MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE REQUEST TO REZONE BOTH PARCELS AT 18501 AND 18511 LINDEN AVENUE FROM OFFICE (O) AND R-48 TO REGIONAL BUSINESS (RB). THE MOTION WAS SECONDED BY COMMISSIONER MCCLELLAND.**

The Commission briefly discussed whether or not the motion on the table would have to be withdrawn before a new motion could be made. It was decided that the Commission did not need to withdraw the motion. They could choose not to act on it and put forward a new motion instead.

**COMMISSIONER HALL MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE REQUEST TO REZONE BOTH PARCELS AT 18511 AND 18501 LINDEN AVENUE FROM OFFICE (O) AND R-48 TO COMMUNITY BUSINESS (CB). COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.**

Commissioner Hall recalled the Commission's previous discussion about whether or not they could condition a rezone or place conditions on a development that go beyond the zoning code requirements. He noted that the City Attorney cautioned against this practice. If the choice is to approve the rezone to CB with no conditions or deny it outright, he would prefer a rezone to community. However, he asked that the City Attorney provide further insight regarding his position.

Mr. Sievers explained that, from his history with the City, he is very reluctant to use contract rezones and concomitant agreements. However, there have been occasions when this concept has been utilized. He said he cautions against contract rezones because they are cumbersome to implement. Instead of a simple zoning designation, a contract rezone requires that applicants agree to the conditions imposed by the City Council and Commission, and this agreement must somehow be identified on the zoning map. In addition, a contract rezone would place an additional constraint on future property owners.

Mr. Sievers explained that the City's current criteria for project rezones are very brief, and there are no rules on what zoning conditions could be addressed through a contract rezone. After further reviewing the issue with staff, he concluded that contract rezone concept probably runs against the intent of the Growth Management Act. He advised that contract rezones have been authorized by Washington Courts since 1967 if conditions agreed to between the developer and the City are permissible exercises of the police power authorized by statute or ordinance (*Myhre vs. Spokane*). Contract rezones were used to impose conditions to prevent harm from possible development, and were one of the only ways to address environmental impacts at the time. Since that time, however, SEPA has become a valuable tool for addressing environmental impacts. In addition, over time, the zoning codes and development standards have become more sophisticated. Also under 1995 regulatory reform, counties and cities were required to adopt a comprehensive planning process under the Growth Management Act. The intent was to restrain the way project permits were processed, with the objective of providing protection to property owners and the public through expeditious and predictable project permit approval.

Mr. Sievers expressed his belief that preserving the process of public participation is one of the underlying purposes of his thoughts on contract rezones. He explained that contract rezones have traditionally been used as a restrictive measure. He noted that the City's current Comprehensive Plan provides a number of zoning designations that would be consistent for the property, and contract rezones allow property owners to obtain approval for higher density zones based on specific conditions outlined in the contract. Once developers figure out they can get whatever zoning designation they want through the contract rezone process, the zoning map could become convoluted.

Mr. Sievers expressed his belief that there should be a lot of public process in creating and amending the Comprehensive Plan Policies and the Development Code. He noted several recent discussions on development regulation amendments (critical areas, cottage housing, trees, etc.) that drew significant public feedback. He expressed his concern that with some of the recent contract rezones the public process might not have been adequate. When the Commission suggests conditions on applications that were advertised to the public as straightforward rezone proposals, the public is often not allowed an adequate opportunity to comment regarding the impacts of the conditions. Because rezones and contract rezones are quasi-judicial actions, the public would not have the ability to talk to the City Council about their concerns after the Commission has forwarded their recommendation. The City Council's hearing would be closed record based on testimony provided at the hearing before the Commission.

Mr. Sievers advised adopted legislative findings indicate that "type of land use" is more than a simple category of occupancy or density. It includes a comprehensive packet of development standards that attach to each land use district to define the appearance and impacts of property use. He suggested there

are certain development standards that should be inviolate and not changed at the project review level. Instead, the project should be changed to fit the framework provided by the Comprehensive Plan and zoning regulations. If the plan and regulations are too restrictive, they should be docketed for amendment so the cumulative impacts of making the change equally available to all properties similarly situated can be fully addressed.

Mr. Sievers explained that while the contract terms often address concerns that are raised by neighboring property owners, it is difficult for the City to enforce the conditions in perpetuity. He suggested it can be misleading for the Commission to review proposed site plans for a property when reviewing a rezone application. It is important to understand that once a rezone is approved, the applicant would not be required to develop as per the design plans that were presented to the Commission.

Mr. Sievers advised that the old King County Title 18 laid out very limited circumstances when the zoning district could be re-opened for conditions in a contract rezone. However, it did not permit reduction of minimum development standards. This was dropped when the new Shoreline Development Code was adopted, but it could be put back in.

Commissioner Hall pointed out that in the three years he has been on the Commission just about every rezone application that has come before them has had a staff recommendation for conditions. He asked what has changed since the last rezone that staff recommended with conditions. Mr. Sievers agreed that many the recent rezone applications have included staff recommended conditions, and that is why he has advised them to stop this practice. He said he has had to redraft many of Commission's recommendations regarding contract rezones before forwarding them to the City Council because they have not been legal as far as the model of a concomitant agreement.

Commissioner Pyle recalled Mr. Sievers' comment that many of the impacts the Commission is trying to address through conditioning a rezone could be mitigated through the SEPA process. However, he pointed out that some of the rezone applications ultimately lead to the subdivision of property that is four lots or less, which would not require a SEPA review. Building a single-family residence would not require a SEPA review, either. Mr. Sievers agreed there are categorical exemptions where projects can go straight through the permit process without a SEPA review, but this would not include the significant parcels. He suggested the City should follow the statute. A property owner has the right to build according to the regulations. If problems arise, the statutes allow the City to fix the regulations, but do not give an excuse to change the rules on a developer or take something away from the public.

Mr. Tovar said that since he was hired as the Shoreline Planning and Development Services Director he has had concerns about how the City's development code was put together and how rezoning has been done in the City in the past. He reminded the Board that the Growth Management Act requires all cities in the State to have a timely, fair and predictable permit process. It also requires that zoning regulations, including the zoning map, be consistent with the Comprehensive Plan. Local governments have a responsibility to make the two documents consistent. Relying on contract rezones or parcel-by-parcel rezones is common practice but is not the intent of the Growth Management Act. A more attractive option would be to legislatively rezone parts of the City to be consistent with what the Comprehensive Plan says they ought to be.

Mr. Tovar agreed with the City Attorney that the City Council could adopt regulations to amend what is permitted in a use zone of the City and create a requirement for discretionary site review, including appropriate conditions. Instead of being a rezone process, it would be a condition of the zone for that property. He said it would take a fair amount of work to reform the City's code to get that kind of an outcome everywhere in the City, but longer term that would be the more sensible direction to move. This would avoid the current problems with the contract rezone process. It would also avoid the risk of potential appeals.

Commissioner Pyle asked if the City would be able to condition 4-lot subdivisions that follow a rezone to a higher density to mitigate any kind of identified problems on the site. Mr. Tovar answered that once the zoning map has been changed, the zoning is set for the property. Future property owners would have the ability to construct whatever the zone allows and would not have any legal obligation to abide by the conditions that were imposed upon the prior property owner. Commissioner Pyle asked if plat conditions could be placed on the property when it is subdivided. Mr. Tovar answered that subdivisions of four lots or less would be categorically exempt from SEPA, unless there were critical areas on the site. Commissioner Pyle noted that the development code could be written in such a way that would allow staff to place conditions on a short plat subdivision as part of the administrative review process.

Commissioner McClelland said she understands the need for consistency between the zoning ordinance, zoning map and the Comprehensive Plan. However, she noted that while the Development Code does not allow flexibility, there are some policies in the Comprehensive Plan that do. She referred to Land Use Policy 18, which states some limited industrial uses might be allowed under certain circumstances. Next, she referred to Land Use Policy 22, which states that City could provide incentives such as increased height and bulk up to 30% of allowed floor/area ratio if a development could provide three of the things on the list.

Mr. Tovar agreed that the Comprehensive Plan does allow flexibility. However, it is important to remember that the Comprehensive Plan provides policy statements, not regulations. The regulations found in the Development Code control what can happen on a property. While the Comprehensive Plan states that the regulations should have flexibility, if the Development Code does not give this flexibility, the Comprehensive Plan policy cannot be implemented. It is the City's responsibility to make sure their Development Code is written in such a way that allows them to implement the policies in the Comprehensive Plan.

Mr. Sievers suggested that the Comprehensive Plan goals and policies speak to those who draft and approve legislative changes to the regulations. They are intended to guide the City by identifying what should be in the regulations. However, they are not meant speak to the Commission and/or City Council when judging a project application. He emphasized that the existing Development Code controls projects, and not all of the policies in the Comprehensive Plan have found their way into the regulations.

Commissioner Hall pointed to the criteria by which the Commission is supposed to evaluate rezone applications. Criterion 1 states that the rezone must be consistent with the Comprehensive Plan, and Criterion 3 states that the rezone must be warranted to achieve consistency with the Comprehensive

Plan. He suggested that under the City's current code, rezones are supposed to be judged by the Commission explicitly for consistency with the Comprehensive Plan. A rezone is a quasi-judicial process that requires a public hearing, and the Commission's job is to balance the competing interests and values of the community. In the past, the Commission has been able to accomplish this goal by imposing conditions on rezones. If this tool is no longer an option, the threshold for approving a rezone would go up. If there is anything about a proposed rezone that would adversely affect the public health, safety or general welfare, the Commission would not be able to mitigate with conditions. Therefore, they would be compelled by the code to reject the rezone application.

Commissioner McClelland referred to the table on Page 42 of the Staff Report and noted that an O zone would allow up to 8 units, and an R-48 zone would allow 15. An RB zoning designation would allow 35, and a CB zone would allow 15. She asked if it would be possible to build 23 units on the subject properties based on the current zone. Mr. Szafran answered no. He explained that the Development Code identifies a maximum density of 24 units per acre for the property zoned O, and 48 units per acre would be allowed on the property that is zoned R-48. The densities cannot be added together.

Mr. Tovar suggested that, at some point in the future, the City should complete an overhaul of the entire zoning code. This would enable them to create zoning categories that are more flexible, but more targeted to what the City wants to achieve. Commissioner McClelland noted that the applicant has the option of taking the application off the table until the zoning code has been revised to address his situation.

### **Presentation of Final Staff Recommendation**

Mr. Szafran said staff's final recommendation is that the Commission accept the original recommendation in the Staff Report to approve a rezone for both of the subject parcels to Community Business (CB).

### **Final Questions by the Commission and Commission Deliberation**

Commissioner Wagner suggested the applicant be invited to share his view regarding the current motion on the table to rezone the properties to CB.

**Jim Abbot** said the applicant is still willing to be bound by all of the requirements of a CB zone (impervious surface, 60-foot height limit, etc), with the exception of the number of units allowed. They would like to construct 25 units instead of 15. The development would look the same from the outside, but they would like to build smaller apartment units (900 to 1,000 square feet) as opposed to fewer large condominium units (1,700 to 1,800 square feet). He summarized that, while the applicant is not opposed to the staff's recommendation to rezone the property to CB, the CB zone would not allow them to accomplish their intended development.

Mr. Abbot noted that a memorandum from staff indicates that within the next few weeks, they plan to initiate an amendment to the Development Code to permit greater residential densities on CB zoned properties between approximately Fremont and Ashworth Avenues. The applicant is concerned about

postponing the project until the amendments have been approved. He noted that contract rezones and concomitant agreements have been used legally by the City and other communities for a long time. He concluded by stating that what the applicant is proposing would be a good thing for the City.

Ms. Cohn said staff's intent is to move the change to the Development Code forward very quickly. Mr. Tovar said that if a rezone to CB is approved by the City Council, an amendment to remove the unit count limitation in the CB zone would address the applicant's concern. The property would be subject to the amended standards for the CB zone. However, there is a risk that the Commission or City Council would not recommend approval of an amendment to remove the unit count limitation. Mr. Cohn noted that staff has been discussing this Development Code amendment for about two months, so it was not brought up just to address this particular rezone application.

### **Closure of the Public Hearing**

The public hearing was closed at 8:07 p.m.

### **Vote by Commission to Recommend Approval, Denial or Modification**

Ms. Simulcik Smith recapped the motion on the floor as follows:

**COMMISSIONER HALL MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE REQUEST TO REZONE BOTH PARCELS AT 18511 AND 18501 LINDEN AVENUE FROM OFFICE (O) AND R-48 TO COMMUNITY BUSINESS (CB). COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.**

**THE MOTION CARRIED UNANIMOUSLY.**

### **PUBLIC HEARING ON SITE-SPECIFIC REZONE AT 20309 – 8<sup>TH</sup> AVENUE NORTHWEST (PROJECT #201588)**

Vice Chair Kuboi reviewed the rules and procedures for the public hearing and reminded the Commissioners of the Rules of the Appearance of Fairness Laws. He opened the hearing and invited the Commissioners to disclose any communications they may have received concerning the subject of the hearing outside of the hearing. Commissioner Broilli disclosed that because he knows the applicant well, he would not participate in the hearing or vote on the application. None of the other Commissioners indicated ex parte communications. No one in the audience voiced a concern, either.

### **Staff Overview and Presentation of Preliminary Staff Recommendation**

Ms. Szafran reviewed the Staff Report for the proposed rezone application to change the zoning designation of two parcels from Residential – 4 Dwelling Units (R-4) to Residential – 6 Dwelling Units (R-6). He advised that the subject properties are identified in the Comprehensive Plan as low-density residential. The block where the subject property is located is currently zoned R-4, while everything else in the vicinity is zoned R-6. He provided an aerial photograph of the site, showing one home on each of

the two parcels. There is currently heavy vegetation and moderate slopes on the properties. He described the surrounding development, which is all single-family residential.

Mr. Szafran reviewed that neighbors have expressed concern about access to the subject properties from 10<sup>th</sup> Avenue Northwest, and the impact this would have to traffic. However, he emphasized that no access is proposed from this street. The neighbors also expressed concern about the proposed increase in density. The current R-4 zoning designation would allow for the construction of up to 7 homes, and an R-6 zoning designation would allow up to 11 homes. The applicant has proposed 10 homes for the properties. Lastly, the neighbors expressed concern about the removal of significant trees. He reviewed that the City's current code allows a property owner to remove up to 6 significant trees in a 3-year period without a permit, but they would not be allowed to disturb the trees that are located in the sloped areas.

Mr. Szafran referred to the zoning criteria the Commission must consider when reviewing rezone applications and noted the following:

- The rezone is consistent with the existing zones of R-6 to the east, west and south.
- The rezone would provide infill opportunities that reflect the character of the existing single-family neighborhood.
- The development would be located away from the sensitive areas.
- Natural landscaping would provide a buffer from existing homes to the north and south and also from the 8<sup>th</sup> Avenue Northwest street front.

Mr. Szafran said staff's preliminary recommendation is approval of R-6 zoning for the two subject parcels located at 20309 – 8<sup>th</sup> Avenue Northwest and 20320 – 10<sup>th</sup> Avenue Northwest. Staff recommends that, in the future, the City could consider an area wide rezone to change the whole block of R-4 zoned properties to R-6.

#### **Questions by the Commission to Staff and Applicant**

Commissioner Hall noted that the Comprehensive Plan Map provided in the Staff Report shows that the parcel immediately to the left of the subject properties has a designation of private open space. He asked if this tract was required as part of a previous subdivision. Mr. Szafran said he didn't know.

Commissioner Wagner asked what would prevent the applicant from providing access to the subject parcels from 10<sup>th</sup> Avenue Northwest. Mr. Szafran explained that in order to provide access from 10<sup>th</sup> Avenue Northwest, the applicant would have to gain access through properties owned by two separate people. In addition, the slope would make it difficult to provide access in this location based on current engineering standards.

Commissioner Pyle asked if the applicant would be required to place the steep slope portion of the subject properties into a native growth protection easement. Mr. Szafran answered that the slopes on the subject parcels are not significant enough to be regulated as critical areas.

**Larry Blake** advised that the properties to the north along 205<sup>th</sup> Avenue were subdivided a number of years ago. The lots were allowed to be smaller than code, provided that an open space area be designated and maintained.

Commissioner McClelland said the Staff Report indicates that an R-6 zone would allow the developer to build 11 detached single-family houses on one lot. She asked if this would be a condominium type project. Mr. Blake said that is one possibility in order to save the existing vegetation along the property line. He said there would be only one road into the development from 8<sup>th</sup> Avenue Northwest.

### **Public Testimony or Comment**

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

### **Presentation of Final Staff Recommendation**

Mr. Szafran said staff's final recommendation is that the Commission recommend approval of R-6 zoning for the properties located at 20309 – 8<sup>th</sup> Avenue Northwest and 20320 – 10<sup>th</sup> Avenue Northwest.

### **Final Questions by the Commission and Commission Deliberation**

Commissioner Harris asked if the notice that was sent out to surrounding property owners was mailed to all of the owners of R-4 zoned properties. Mr. Szafran answered that about half of these properties are located within the 600-foot radius for which notices were sent out.

### **COMMISSIONER HALL MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE STAFF'S RECOMMENDATION TO REZONE THE SUBJECT PARCELS TO R-6. COMMISSIONER MCCLELLAND SECONDED THE MOTION.**

Commissioner Hall commented that the neighborhood concerns about access off 10<sup>th</sup> Avenue Northwest are important to consider, but is also important for the Commission to remember the value of having circulation and connectivity in transportation. If they were in a transportation or sub area planning mode, he would actually prefer to see a connection from both 8<sup>th</sup> and 10<sup>th</sup> Avenues Northwest in order to improve traffic circulation. Further, he pointed out that there are topographical features on the subject parcels that have resulted in lower density development in the past, but using techniques such as detached condominium development, might create an opportunity for more infill projects that are creative and achieve the densities envisioned in the Comprehensive Plan.

Commissioner Harris said he struggles with rezoning these two parcels to R-6 zoning, while all of the other R-4 zoned properties would remain unchanged. However, he noted that none of the property owners from the R-4 zoned area came forward to express opposition.

### **Closure of the Public Hearing**

There public hearing was closed.

### **Vote by Commission to Recommend Approval, Denial or Modification**

**THE MOTION CARRIED UNANIMOUSLY. (Note: Commissioner Broili did not participate in the hearing or the final recommendation.)**

### **PUBLIC HEARING ON DRAFT DEVELOPMENT CODE AMENDMENTS**

Vice Chair Kuboi reviewed the rules and procedures for the legislative public hearing on proposed amendments to the Development Code, and then opened the public hearing.

### **Staff Overview**

Mr. Szafran reviewed that the City Council repealed the City's Cottage Housing Ordinance, and the proposed amendments would delete all references to cottage housing from the Development Code. He noted that he would come back before the Commission at a later date with a proposal to remove all references to cottage housing from the Comprehensive Plan.

### **Questions by the Commission to Staff**

None of the Commissioners had questions for the staff during this portion of the meeting.

### **Public Testimony or Comment**

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

### **Final Questions by the Commission and Commission Deliberation**

Commissioner Pyle asked if the Commission has the ability to propose Development Code amendments. Mr. Tovar answered affirmatively and suggested the Commission discuss their ideas for possible Development Code amendments at their March 1<sup>st</sup> meeting. Commissioner Hall clarified that, after their discussion, they could forward their list of proposed amendments to the City Council, with a request that they be docketed for consideration during the next round of Development Code amendments.

**COMMISSIONER HARRIS MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENTS ALL REFERRING TO COTTAGE HOUSING, AS SPELLED OUT IN THE STAFF REPORT. COMMISSIONER BROILI SECONDED THE MOTION.**

## **Closure of the Public Hearing**

The public hearing was closed.

## **Vote by Commission to Recommend Approval, Denial or Modification**

**THE MOTION CARRIED UNANIMOUSLY.**

## **DIRECTOR'S REPORT**

Mr. Tovar reviewed the following bills related to land use that have been introduced into the Legislature this session:

- **Eminent Domain Notice Requirements.** There was a recent Supreme Court decision that when an agency wants to condemn property, notice to the property owner was sufficient if the agency simply posted notice on its website. The Legislature is currently working on a bill that would require the agency to mail notices to property owners.
- **Transfer of Development Rights.** Representatives from the Cascade Land Conservancy came before the Commission to talk about the transfer of development rights from rural areas or resource lands into urban areas. A study bill has been introduced that would call upon the Legislature to set aside funds and provide direction to the Department of Community, Trade and Economic Development (CTED) to work with a number of organizations and report back to the Legislature about how the mechanism for transferring development rights might be made more practical and useful.
- **Regulatory Fairness and Apparent Conflicts Between Agricultural Uses and Critical Areas Regulations.** The Governor has requested legislation to create a joint gubernatorial and legislative task force to look at matters of regulatory fairness. The goal for the task force is to study the situation and bring back some recommendations on how to increase fairness in the intersection between agricultural uses and environmental protection.
- **Critical Areas.** One bill has been introduced which states that critical areas regulations do not operate within agricultural lands. Another bill says that any buffers, specifically setbacks from critical areas, would be counted for purposes of development potential. A bill will be reintroduced this session that would identify safe harbors for local governments. It calls for the State to promulgate specific ways to regulate critical areas using best available science. If a city or county uses that method, they would have safe harbor and couldn't be challenged for compliance with the Growth Management Act.
- **Vesting of Development Rights.** A bill has been introduced to establish when vesting of development rights should occur. In the State of Washington, development rights are vested at the time an application is made. In most other states, the development rights are vested at the time the permit application is granted by a local government. He pointed out that while the Growth Management Act requires detailed Comprehensive Plans, land use regulations, and capital budgets, the State has one of the most liberal vesting statutes in the country. Commissioner Broili asked if vesting rights have a

sunset. Mr. Tovar said that, according to State law, the vesting rights would extinguish when the permit expires.

Commissioner Pyle asked staff to provide more information about whether the City's current critical areas ordinance allows buffers to be counted for purposes of development potential. Mr. Tovar said the City's current critical areas ordinance does not allow development or other modifications to a critical areas buffer. However, a property owner can receive credit for the buffer area for purposes of establishing lot size and density allowed. Apparently, some jurisdictions in the state require that the buffer area be deducted from the net lot area and/or unit count. The proposed legislative bill would prevent that from happening.

Mr. Tovar advised that the City's 2007-2008 work plan would be published in the next issue of *CURRENTS*. The article would introduce a new City website where citizens can learn more about various issues and projects. The website would provide the work plan chart, as well as links to City programs and/or projects such as the upcoming speaker series, comprehensive housing strategies, recycling construction materials from demolition sites, environmentally sustainable communities, the Ridgecrest process and the South Aurora Triangle project.

Mr. Tovar said the website would also provide a link to the civic center/city hall project, which the City Council recently decided to move forward with. The objective is to have the project under construction within the next year, which would involve a very intense public process and decision making by the City Council. He advised that the University of Washington Students have nearly completed their Town Center Report, and the staff would use this report as a resource when preparing staff recommended town center policies or strategies for the Commission and City Council to consider in April or May.

Mr. Tovar said the City Council has raised concerns about exactly what is meant by the phrase "town center," and he agreed that a clear description of the town center concept must be created. He suggested the description include three distinct tiers: the new city hall, the immediate town center environment, and the residential neighborhoods that lie to the east and west. He said concern has been expressed about whether these residential neighborhoods could remain as viable, long-term residential communities and the intent is to include them in the broader Central Shoreline Sub Area Plan discussions.

Vice Chair Kuboi pointed out that when an article was published in the Enterprise asking for citizens to serve on the Comprehensive Housing Strategies Committee, the City received a lot of response. But there was very little community response from the website, itself. He stressed the importance of making people aware that the website is the primary place to find information about City projects.

## **REPORTS OF COMMITTEES AND COMMISSIONERS**

Commissioner Broili reported that the first ABC Team Meeting was held on January 30<sup>th</sup>, and they spent time covering the ground rules and allowing participants to express their ideas and opinions. The next meeting is scheduled for February 14<sup>th</sup>. Commissioner McClelland said the City Manager attended the

meeting and commented on the number of talented individuals who were participating on the team. The membership is quite diverse.

Vice Chair Kuboi reported that the Comprehensive Housing Strategies Committee is also made up of talented individuals. They spent the first three or four meetings brainstorming ideas for consideration, and now they are in the transitional process of refining and categorizing the issues. Staff has proposed a work plan that maps out the meetings and agenda topics through June.

Commissioner Harris reported on his attendance at the recent Ridgecrest Meeting, which was well attended. A lot of ideas and dreams were brought forward, and the University of Washington Students were fun to watch. Mr. Tovar noted that the meeting was attended by two Planning Commissioners, three elected officials, five developers and about 110 citizens from the Ridgecrest Neighborhood. Commissioner Harris credited much of the meetings' success to Patty Hale and her leadership.

Commissioner Pyle reported that the Briarcrest Neighborhood recently held their first reform meeting, which was attended by about 35 individuals. He and his neighbor facilitated the meeting to obtain neighborhood feedback. The top issues were related to transportation, planning and neighborhood preparedness. The next meeting is tentatively scheduled for March 12<sup>th</sup> to work on the issue of planning. They would likely invite planning staff and Commissioners to attend.

Commissioner Broili said he and Commissioner Harris attended the Green Building Forum, along with a few City Council Members. Presentations were made by representatives from various green businesses. The meeting was well attended and interesting.

Commissioner Broili announced that the citizens can now watch the City Council Meetings on the internet.

### **UNFINISHED BUSINESS**

There was no unfinished business scheduled on the agenda.

### **NEW BUSINESS**

No new business was scheduled on the agenda.

### **ANNOUNCEMENTS**

Commissioner Pyle announced that there is a new website available for people who are interested in sustainable energy called citizenrenew.com. He noted that one of the Council's goals is a sustainable community. He explained that the website promotes solar energy, and the company is actually selling solar power back to the public at the grid price. They will put solar panels on roofs and lease them for the price of the power. This company could help the City achieve their sustainability goals without having to put forward a significant upfront cost for solar panels.

## **AGENDA FOR NEXT MEETING**

Mr. Cohn announced that Mark Hinshaw would provide a speaker series presentation at the next Commission Meeting. The format would be the same as that used for the last speaker series. The presentation would be televised and available on the web. Mr. Cohn advised that staff would meet with Mr. Hinshaw a week prior to his presentation, so Commissioners could forward their specific questions to staff.

## **ADJOURNMENT**

The meeting was adjourned at 9:17 p.m.

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Rocky Piro  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission