
Council Meeting Date: March 26, 2007

Agenda Item: 8(b)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No.461, a Site Specific Rezone located at 20309 8 th Ave NW and 20320 10 th Ave NW
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joe Tovar, PADS Director Steven Szafran, Planner II

PROBLEM/ISSUE STATEMENT:

The issue before the City Council is a Site Specific Rezone for two parcels located at 20309 8th Ave NW and 20320 10th Ave NW (see **Attachment B1**). The applicant, Larry Blake, is requesting to change both of the parcels from R-4 (Residential 4 units per acre) to R-6 (Residential 6 units per acre).

The proposed zone change to R-6 will allow construction of up to 11 single-family homes. Under the current R-4 zoning, the applicant can construct up to 7 new single-family homes.

A rezone of property in single ownership is a Quasi-Judicial decision of the Council. An open record public hearing was conducted before the Planning Commission on February 1, 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 requested by the applicant recommended by the Planning Commission and Staff (a rezone from R-4 to R-6) by adopting Ordinance No. 461.
- The Council could deny the rezone request, leaving the zoning at R-4.

FINANCIAL IMPACTS:

- There are no direct financial impacts to the City.

RECOMMENDATION

Staff recommends that the Council adopt Ordinance No.461, (**Attachment A**) thereby approving the rezone located at 20309 8th Ave NW and 20320 10th Ave NW.

Approved By: City Manager  City Attorney Fps

INTRODUCTION

The rezone application before Council is a request to change the zoning designation for two parcels located at 20309 8th Avenue NW and 20320 10th Avenue NW from R-4 to R-6.

A public hearing before the Planning Commission was opened and closed on February 1, 2007. The Planning Commission staff report is included as **Attachment B**. The Planning Commission Findings and Recommendation are included in **Attachment C**

The Planning Commission recommended that the rezone of the property from R-4 to R-6 be approved. The draft minutes of the public hearing are included in **Attachment D**.

BACKGROUND

In 1998 the City of Shoreline adopted its first Comprehensive Plan. This document includes a map that identifies future land use patterns by assigning each area a land use designation. Both of the subject parcels has a land use designation of *Low Density Residential*. Appropriate zoning designations for the Low Density Residential Land Use Designation include R-4 and R-6. All parcels in the immediate area also have a Comprehensive Land Use Designation of *Low Density Residential*.

The two subject parcels are currently zoned R-4. There is one single-family home on each of the subject parcels. Under the proposed zone change, both parcels would be zoned R-6, and up to 11 single-family homes could be constructed. Under the current zoning of R-4, the applicant has the right to construct 7 new single-family homes.

The Comprehensive Plan does not offer policy guidance to decide whether R-4 zoning or R-6 zoning is the appropriate zoning category under the Low Density Residential land use category. Therefore, Staff and the Planning Commission look at expected development impacts, nearby development, and other fact to determine which zoning category is most appropriate.

PROCESS

The application process for this project began on October 20, 2006, when the applicant held a pre-application meeting with city staff. A neighborhood meeting was held on November 2, 2006 with property owners within 500 feet of the proposed rezone. The formal application was submitted to the city on November 15, 2006 and was determined complete on November 27, 2006.

The requisite public hearing was held before the Planning Commission on February 1, 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 R-6 with no added conditions.

PUBLIC COMMENT

The City received 1 comment letter 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:

- Loss of trees
- Traffic
- Over-building and increased density

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

PLANNING COMMISSION RECOMMENDATION: REZONE TO R-6

The applicant has requested that the subject parcels be rezoned to **R-6**. Planning Commission in its Findings and Determination found that a rezone to **R-6** 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 THE CITY COUNCIL

The options available to the City Council are:

- 1) Adoption of the Planning Commission and Staff's recommendation of R-6;
- 2) Remand back to Planning Commission for additional review; or
- 3) Denial of the rezone request leaving the zoning of R-4. The Council may review the written record and determine that the existing R-4 zoning is the most appropriate designation for the subject parcel. This determination would be consistent with the *Low Density Residential* Comprehensive Plan designation for the parcels, as this designation includes both the existing zoning (R-4) and the requested and recommended zoning (R-6).

RECOMMENDATION

Staff recommends that Council adopt Ordinance No.461, (**Attachment A**) thereby approving the rezone of two parcels located at 20309 8th Avenue NW and 20320 10th Avenue NW from R-4 to R-6.

ATTACHMENTS

Attachment A: Ordinance No.461: R-4 to R-6.

Attachment B: Planning Commission Staff Report

B1: Existing Conditions Site Plan

B2: Vicinity Map with Zoning Designations

B3: Vicinity Map with Comprehensive Plan Land Use Designations

B4: Public Comment Letters

B5: Applicant's Rezone Criteria

Attachment C: Planning Commission Findings and Determination- February 1, 2007

Attachment D: Planning Commission Minutes- February 1, 2007

ORDINANCE NO 461

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP CHANGING THE ZONING FROM R-4 TO R-6 OF TWO PARCELS LOCATED AT 20309 8th AVENUE NW and 20320 10th AVENUE NW (PARCEL NUMBERS 0126039216 AND 0126039632).

WHEREAS, the owner of the property, with parcel number 0126039216 and 0126039632, has filed an application to reclassify the property from Residential 4 units per acre (R-4) to Residential 6 units per acre (R-6); and

WHEREAS, on 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 Residential 6 units per acre (R-6) 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 20309 8th Avenue NW and 20320 10th Avenue NW (parcel numbers 0126039216 and 0126039632), to R-6 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. 201588 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 20309 8th Avenue NW and 20320 10th Avenue NW (parcel numbers 0126039216 and 0126039632) from R-4 to R-6.

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.

Mayor Robert L. Ransom

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

**CITY OF SHORELINE
PLANNING COMMISSION**

FINDINGS, CONCLUSIONS AND RECOMMENDATION

PROJECT INFORMATION SUMMARY

Project Description: Rezone application to change the zoning designation of two parcels from Residential – 4 dwelling units per acre to Residential- 6 dwelling units per acre.

Project File Number: 201588

Project Address: 20309 8th Ave NW and 20320 10th Ave NW, Shoreline, WA 98177

Property Owner: Larry Blake

SEPA Threshold: Determination of Non-Significance (DNS)

Staff Recommendation: Recommend approval of a rezone of the two parcels to R-6.

FINDINGS OF FACT

Current Development

1. The parcels at issue are located at 20309 8th Ave NW and 20320 10th Ave NW, in the Richmond Beach Neighborhood and are generally bounded by NW 205th Street to the north, 8th Ave NW on the east, 12th Ave NW on the west and NW 200th to the south.
2. 20309 8th Ave NW (tax ID # 0126039216) is 60,112 square feet and is developed with one single-family home. The site is zoned R-4 and has a Comprehensive Plan Land Use designation of Low Density Residential (“LDR”). *Attachment 1.*
3. 20320 10th Ave NW (tax ID # 0126039632) is 21,000 square feet, directly to the west of 20309 8th Ave NW, and developed with one single-family residence. The site is zoned R-4 and has a Comprehensive Plan Land Use designation of Low Density Residential (“LDR”). *Attachment 1.*
4. The surrounding neighborhood has an abundance of single-family homes on mostly very large lots. Essentially, these two parcels are located in an island of very low density development (R-4), surrounded by R-6 zones developed with single-family homes.
5. There are no existing sidewalks along 8th Ave NW in the area of the rezone. The applicant will be required to install all required site improvements at the time of building permits.

Proposal

6. The applicant proposes to rezone both parcels to Residential 6 units per acre (R-6) in order to build 10 new single-family homes. The applicant expects to build one driveway, connecting to 8th Ave NW that will serve as access to all the homes. This configuration would keep the homes off the steeper portions of the property.
7. A pre-application meeting was held with the applicant and City staff on October 20, 2006, the applicant held the requisite neighborhood meeting on November 2, 2006, and a Public Notice of Application was posted at the site.
8. Thirteen people attended the neighborhood meeting. Comments received at the neighborhood meeting addressed overbuilding in Shoreline, removal of trees, and access to and from 10th Ave NW. The one written comment received during the public comment period included concerns about density, decline in property values, and substantial impacts to existing homes in the area. *Attachments 4 and 5.*
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 November 30, 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 December 21, 2006.
10. The Planning Department issued a SEPA Determination of Non-Significance and notice of public hearing on the proposal on December 21, 2006. The DNS was not appealed.
11. An open record public hearing was held by the Planning Commission for the City of Shoreline on February 1, 2007.
12. The City's Long Range Planner, Steven Cohn, and Planner II, Steve Szafran, have reviewed the proposal and recommend approval of the applicant's proposed rezone to R-6.

Comprehensive Plan Land Use Designations.

13. Parcels to the north, west, south and east have a Comprehensive Plan Land Use designation of Low Density Residential, which allows R-4 and R-6. *Attachment 3 to this Planning Commission Staff Report.*
14. The Comprehensive Plan describes Low Density Residential as applicable "for areas currently developed with predominately single family detached dwellings. Single family dwelling units will be allowed and other dwelling types, such as duplexes, single-family attached, and accessory dwellings, may be allowed under

certain circumstances. Appropriate zoning for this designation is R-4 or R-6 Residential, unless a neighborhood plan, subarea plan or special district overlay plan/zone has been approved.

Current Zoning

15. Parcels immediately to the north, south and west of the subject parcels are zoned R-4 and developed with a single-family homes; parcels to the east (across 8th Ave NW) are zoned R-6 and are also developed with single-family homes. *Attachment 2.*

16. The purpose of R-4, as set forth in Shoreline Municipal Code 20.40.040, is to “provide for a mix of predominately single detached dwelling units and other development types, such as accessory dwelling units, and community facilities that are compatible with existing development and neighborhood character”.

Proposed Zoning

17. 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.

18. The purpose of an R-6 zoning district is the same as the purpose of the R-4 zone: to “provide for a mix of predominately single detached dwelling units and other development types, such as accessory dwelling units, and community facilities that are compatible with existing development and neighborhood character”.

Impacts of the Zone Change

19. The following table outlines the development standards for the proposed zoning (R-6) and the current zoning (R-4):

	R-6	R-4
Allowed Dwelling Units	11	7
Min Lot Area	7,200	7,200
Front Setback	20	20
Rear Setback	15	15
Side Setback	5/15 total	5/15 total
Height	35	35
Max Impervious Area	50	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? Is the rezone warranted in order to achieve consistency with the Comprehensive Plan?

3. a. The rezone is consistent with the Comprehensive Plan and achieves consistency with the Comprehensive Plan. Both R-4 and R-6 maintain consistency with the Comprehensive Plan and are appropriate under Land Use Element Goals III and IV of the Comprehensive Plan.
 - Land Use Element Goal III of the Comprehensive Plan is to “encourage a variety of housing opportunities and appropriate infrastructure suitable for the needs of Shoreline’s present and future residents.
 - Land Use Element Goal IV of the Comprehensive Plan is to “encourage attractive, stable, quality residential and commercial neighborhoods that provide a variety of housing, shopping, employment and services.”

However, R-6 rezone proposal will provide greater consistency with the Comprehensive Plan goals and policies by providing greater density and more varied housing opportunities while still providing a housing product that fits with the area. Not only does the applicant’s proposal meet the goals and policies of the Comprehensive plan but an area-wide rezone of all the R-4 in the area would also meet these objectives.

b. The proposed rezone to R-6 is also consistent with the following land use policies:

- LU 10: Review and update infill standards for single-family houses that promote quality development and reflect the character of the existing neighborhood.
- LU 87 and LU 97: Provide incentives for site development that will minimize environmental impacts and mitigate drainage, erosion, siltation, and landslide impacts while encouraging native vegetation.

This zone change to R-6 will allow the developer to build 11 detached single-family homes on one lot. Regulations require that the homes be built away from areas with very steep slopes. .

The R-6 zoning would result in greater development intensity than exists immediately to the north, west and south but developing the site at the full R-4 potential would also result in greater intensity that exists now. R-6 zoning is appropriate in this area, as this is the only “pocket” of R-4 zoning in the area.

Rezoning the parcels to R-6 achieves consistency with the Comprehensive Plan as it would allow greater density of residential, allow for height and density that would be compatible with what currently exists in the neighborhood, and be 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 R-6 zone protect against uses that would be contrary to the public health, safety or general welfare.
5. A rezone to R-6 will allow the property owner to develop the parcel with up to 11 homes. Under the current zoning the owner may build up to 7 homes. The difference between 7 and 11 homes will not adversely affect the public health, safety or general welfare, or have a substantial impact on the community.

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

6. Concerns have been raised at the neighborhood meeting and one letter was received from an adjacent neighbor during the public comment period. Comments included over-building, increased density, removal of trees and traffic on 10th Avenue NW. The following summary addresses each of these.

- Over-building and increased density

The current R-4 zoning of the two subject parcels allows up to 7 new homes, which amounts to 3.8 units per acre. If R-6 zoning is approved, 11 new homes will be allowed, which is 5.9 units per acre. Although there is no question that density will be increased with the R-6 rezone, the increase in density is minimal.

- Removal of trees

The two subject sites have substantial environmental features including trees and slopes. The Shoreline Development Code allows 6 trees to be cut without a permit; however, trees in the slope area on-site cannot be cut since the slope is considered an environmentally sensitive area with areas of very high landslide hazards.

- Traffic on 10th Avenue NW

Obtaining access to 10th Avenue is unlikely because a) it would entail the crossing of an environmentally sensitive area between the currently undeveloped property and the existing house near 10th, and b) it would require a 20-foot driveway, which could necessitate that a portion of the house be removed.

Will the rezone have merit and value for the community?

7. The proposed rezone will allow an under-developed area of Shoreline to generate more density while still meeting the goals and policies of the Low Density Residential land use designation. This criterion is met since the rezone provides an opportunity to accommodate more dwelling units that complement the existing single-family homes in the neighborhood.

RECOMMENDATION

The Planning Commission recommends that the City Council approve a rezone of the two parcels to R-6.

Date: _____

By: _____
Planning Commission Chair

ATTACHMENTS

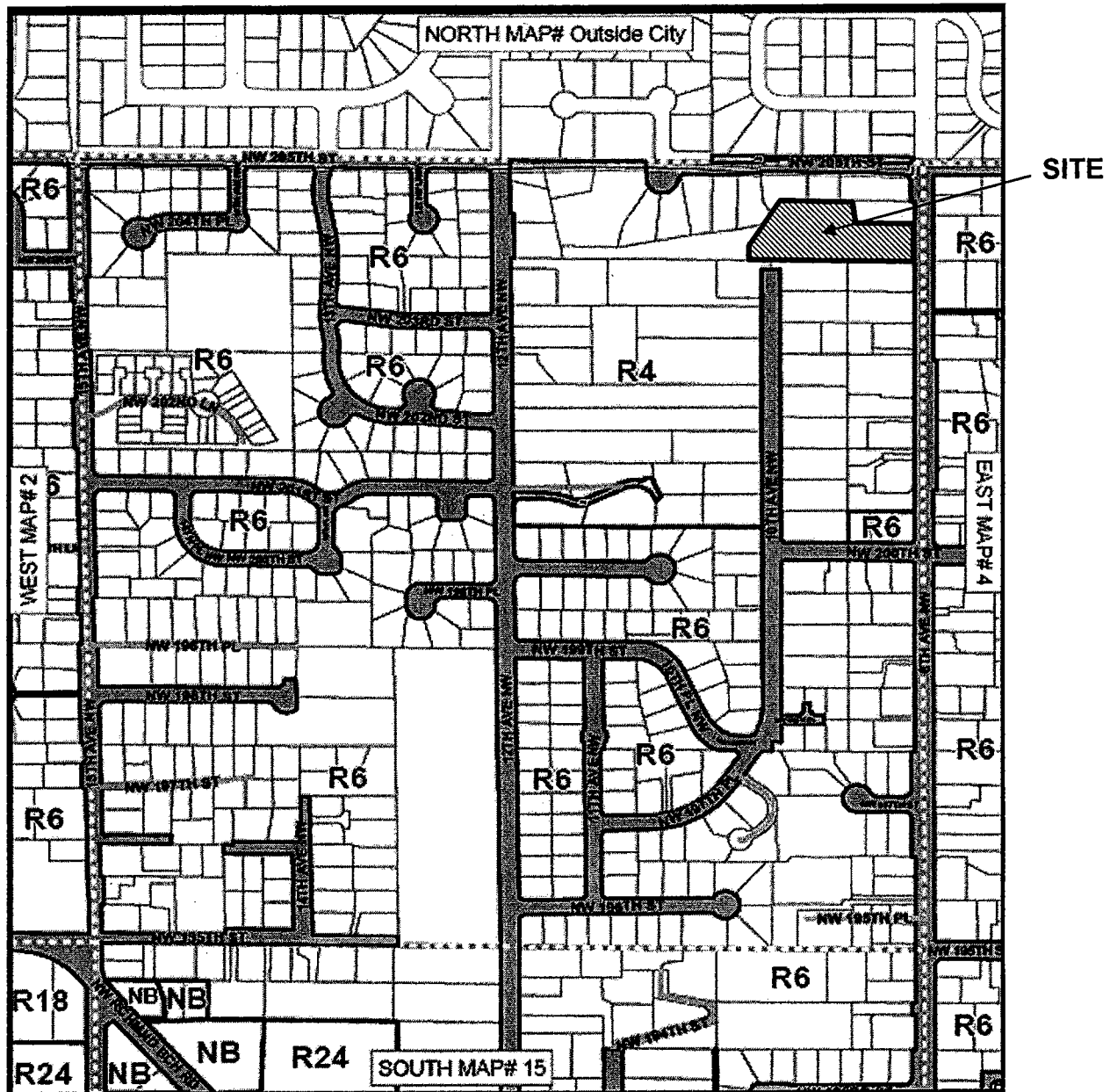
Attachment 1- Zoning Map

Attachment 2- Comprehensive Plan Map

Attachment 3- Neighborhood Meeting Report

Attachment 4- Public Comment Letter

Attachment 5- Applicant's Rezone Criteria



CITY OF SHORELINE ZONING MAP

Zoning Legend

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

Feature Legend

- Map Tile Lines	- Underscored ROW
- City Boundary	- Parcel Line

NW1/4-S1-T26N-R3 E

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70

MAP # 3

1:3,600



0 75 150 300 450 600 Feet

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

Representation of official zoning map adopted by City Ordinance No. 292. Shows amendments through December, 2005.



**Neighborhood Meeting Report
For Project at 20309 8th NW**

Thirteen people attended the neighborhood meeting representing 8 separate properties.

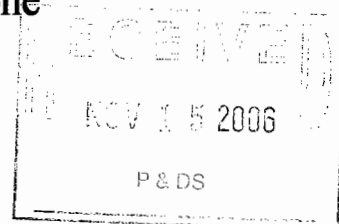
One person living east of 8th NW in Hillwood neighborhood attended and was concerned in general about over building in Shoreline, but since this project met the Comp Plan criteria and since he also supported private property rights he didn't plan on fighting this project.

Four people from two properties north of the potential project were concerned about removal of trees from the gully and potential construction in the gully itself. Since this project plans on retaining most trees (I pointed out a couple of trees that would be cut due to disease and safety concerns) with no construction in the gully itself they seemed satisfied with the project.

One neighbor living on 8th NW attended, but was only interested in learning details of the project and made no comments pro or con concerning the project.

Finally, 7 people living on 10th NW questioned the possibility of a road accessing the project from 10th would have a negative impact on traffic on their street. Since the project will access 8th NW and not 10th NW there should be no negative impact on their properties.

Most of the meeting consisted of informing people on the details of the project and general comments and concerns from everyone about growth in Shoreline, and the impact of the GMA on development requirements in Shoreline.



Steve Szafran

From: neil riddle [seaplym@hotmail.com]
Sent: Thursday, December 14, 2006 4:31 PM
To: Steve Szafran
Subject: Blake application #201588

Blake application #201588

City of Shoreline

attn: Steven Szafran, Planner II

To whom it may concern:

We hereby oppose the building of 10 new homes at the proposed address of 20309 - 8 ave NW, Larry Blake, appl.#201588

We live directly South of the project at 20303 - 8 ave NW and feel that the density will be too much for the lot & site.

We have just completed a remodel/addition to our home at the above address and probably would never have done so, if we had been informed of this development.

The neighborhood we live in is all single-family R-4 zoned and this many new homes on one lot is just too many - the impact will be substantial.

We just want to go on the record as being opposed to this high-density planning.

Thanks for your consideration -

Neil & Carol Riddle

REZONE OF PROPERTY AND ZONING MAP CHANGE CRITERIA

1. The rezone is consistent with the Comprehensive Plan in several ways including:

LU9 states that "Low Density Residential land use is intended for areas currently developed with predominantly single family detached dwellings...(a)ppropriate zoning for this designation is R-4 or R-6 Residential..." Richmond Beach neighborhood and neighboring Hillwood neighborhood is zoned R-6 already. A change to R-6 will not materially change the livability of Richmond Beach or neighboring Hillwood neighborhood..

Under "Housing Policies" in the Comprehensive Plan H6 states "Encourage infill development on vacant or underutilized sites to be compatible with existing housing types." One house on the existing property is past its useful life (no real foundation) and the other two homes hardly can be seen as utilizing the site effectively. Rezoning the site from R-4 to R-6 would more fully utilize the site and still fit into the existing neighborhood.

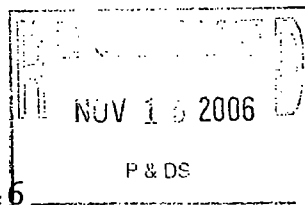
Since the State Growth Management Act mandates cities to plan for growth, and since one aspect of Shoreline's plan has been repealed (cottage housing) rezoning this site will increase the potential development of this site and help the city meet its development requirements mandated by the Growth Management Act.

2. The rezone will not adversely affect the public health, safety or general welfare because development of this site as R-6 fits the existing zoning for virtually all of Richmond Beach neighborhood and all of neighboring Hillwood neighborhood. Nothing in the rezone would adversely affect public health or safety (any development would still have to comply with building and development codes) and since development would increase the existing tax base it would actually add to the general welfare of the community.

3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan since there no material reasons to maintain the existing R-4 designation and changing the designation would actually be more consistent to the existing heighborhoods in the vicinity of the site. There is nothing materially different about the subject site and other similar sites in Hillwood or Richmond Beach that have an R-6 zoning.

4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone for the same reasons as stated above. Existing densities directly across the street (8th Avenue NW) are R-6. Any development would be residential so it shouldn't be detrimental to existing residences in the immediate vicinity.

5. The rezone has merit and value for the community because it is consistent with the Comprehensive Plan, it fits into the existing neighborhoods and it increases the potential tax base for the city.



**CITY OF SHORELINE
PLANNING COMMISSION**

FINDINGS, CONCLUSIONS AND RECOMMENDATION

PROJECT INFORMATION SUMMARY

Project Description: Rezone application to change the zoning designation of two parcels from Residential – 4 dwelling units per acre to Residential- 6 dwelling units per acre.

Project File Number: 201588

Project Address: 20309 8th Ave NW and 20320 10th Ave NW, Shoreline, WA 98177

Property Owner: Larry Blake

SEPA Threshold: Determination of Non-Significance (DNS)

Staff Recommendation: Recommend approval of a rezone of the two parcels to R-6.

FINDINGS OF FACT

Current Development

1. The parcels at issue are located at 20309 8th Ave NW and 20320 10th Ave NW, in the Richmond Beach Neighborhood and are generally bounded by NW 205th Street to the north, 8th Ave NW on the east, 12th Ave NW on the west and NW 200th to the south.
2. 20309 8th Ave NW (tax ID # 0126039216) is 60,112 square feet and is developed with one single-family home. The site is zoned R-4 and has a Comprehensive Plan Land Use designation of Low Density Residential ("LDR"). *Attachment 1.*
3. 20320 10th Ave NW (tax ID # 0126039632) is 21,000 square feet, directly to the west of 20309 8th Ave NW, and developed with one single-family residence. The site is zoned R-4 and has a Comprehensive Plan Land Use designation of Low Density Residential ("LDR"). *Attachment 1.*
4. The surrounding neighborhood has an abundance of single-family homes on mostly very large lots. Essentially, these two parcels are located in an island of very low density development (R-4), surrounded by R-6 zones developed with single-family homes.
5. There are no existing sidewalks along 8th Ave NW in the area of the rezone. The applicant will be required to install all required site improvements at the time of building permits.

Proposal

6. The applicant proposes to rezone both parcels to Residential 6 units per acre (R-6) in order to build 10 new single-family homes. The applicant expects to build one driveway, connecting to 8th Ave NW that will serve as access to all the homes. This configuration would keep the homes off the steeper portions of the property.
7. A pre-application meeting was held with the applicant and City staff on October 20, 2006, the applicant held the requisite neighborhood meeting on November 2, 2006, and a Public Notice of Application was posted at the site.
8. Thirteen people attended the neighborhood meeting. Comments received at the neighborhood meeting addressed overbuilding in Shoreline, removal of trees, and access to and from 10th Ave NW. The one written comment received during the public comment period included concerns about density, decline in property values, and substantial impacts to existing homes in the area. *Attachments 4 and 5.*
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 November 30, 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 December 21, 2006.
10. The Planning Department issued a SEPA Determination of Non-Significance and notice of public hearing on the proposal on December 21, 2006. The DNS was not appealed.
11. An open record public hearing was held by the Planning Commission for the City of Shoreline on February 1, 2007.
12. The City's Long Range Planner, Steven Cohn, and Planner II, Steve Szafran, have reviewed the proposal and recommend approval of the applicant's proposed rezone to R-6.

Comprehensive Plan Land Use Designations.

13. Parcels to the north, west, south and east have a Comprehensive Plan Land Use designation of Low Density Residential, which allows R-4 and R-6. *Attachment 3 to this Planning Commission Staff Report.*
14. The Comprehensive Plan describes Low Density Residential as applicable "for areas currently developed with predominately single family detached dwellings. Single family dwelling units will be allowed and other dwelling types, such as duplexes, single-family attached, and accessory dwellings, may be allowed under

certain circumstances. Appropriate zoning for this designation is R-4 or R-6 Residential, unless a neighborhood plan, subarea plan or special district overlay plan/zone has been approved.

Current Zoning

15. Parcels immediately to the north, south and west of the subject parcels are zoned R-4 and developed with a single-family homes; parcels to the east (across 8th Ave NW) are zoned R-6 and are also developed with single-family homes. *Attachment 2.*
16. The purpose of R-4, as set forth in Shoreline Municipal Code 20.40.040, is to “provide for a mix of predominately single detached dwelling units and other development types, such as accessory dwelling units, and community facilities that are compatible with existing development and neighborhood character”.

Proposed Zoning

17. 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.
18. The purpose of an R-6 zoning district is the same as the purpose of the R-4 zone: to “provide for a mix of predominately single detached dwelling units and other development types, such as accessory dwelling units, and community facilities that are compatible with existing development and neighborhood character”.

Impacts of the Zone Change

19. The following table outlines the development standards for the proposed zoning (R-6) and the current zoning (R-4):

	R-6	R-4
Allowed Dwelling Units	11	7
Min Lot Area	7,200	7,200
Front Setback	20	20
Rear Setback	15	15
Side Setback	5/15 total	5/15 total
Height	35	35
Max Impervious Area	50	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? Is the rezone warranted in order to achieve consistency with the Comprehensive Plan?

3. a. The rezone is consistent with the Comprehensive Plan and achieves consistency with the Comprehensive Plan. Both R-4 and R-6 maintain consistency with the Comprehensive Plan and are appropriate under Land Use Element Goals III and IV of the Comprehensive Plan.
 - Land Use Element Goal III of the Comprehensive Plan is to “encourage a variety of housing opportunities and appropriate infrastructure suitable for the needs of Shoreline’s present and future residents.
 - Land Use Element Goal IV of the Comprehensive Plan is to “encourage attractive, stable, quality residential and commercial neighborhoods that provide a variety of housing, shopping, employment and services.”

However, R-6 rezone proposal will provide greater consistency with the Comprehensive Plan goals and policies by providing greater density and more varied housing opportunities while still providing a housing product that fits with the area. Not only does the applicant’s proposal meet the goals and policies of the Comprehensive plan but an area-wide rezone of all the R-4 in the area would also meet these objectives.

b. The proposed rezone to R-6 is also consistent with the following land use policies:

- LU 10: Review and update infill standards for single-family houses that promote quality development and reflect the character of the existing neighborhood.
- LU 87 and LU 97: Provide incentives for site development that will minimize environmental impacts and mitigate drainage, erosion, siltation, and landslide impacts while encouraging native vegetation.

This zone change to R-6 will allow the developer to build 11 detached single-family homes on one lot. Regulations require that the homes be built away from areas with very steep slopes. .

The R-6 zoning would result in greater development intensity than exists immediately to the north, west and south but developing the site at the full R-4 potential would also result in greater intensity that exists now. R-6 zoning is appropriate in this area, as this is the only “pocket” of R-4 zoning in the area.

Rezoning the parcels to R-6 achieves consistency with the Comprehensive Plan as it would allow greater density of residential, allow for height and density that would be compatible with what currently exists in the neighborhood, and be 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 R-6 zone protect against uses that would be contrary to the public health, safety or general welfare.
5. A rezone to R-6 will allow the property owner to develop the parcel with up to 11 homes. Under the current zoning the owner may build up to 7 homes. The difference between 7 and 11 homes will not adversely affect the public health, safety or general welfare, or have a substantial impact on the community.

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

6. Concerns have been raised at the neighborhood meeting and one letter was received from an adjacent neighbor during the public comment period. Comments included over-building, increased density, removal of trees and traffic on 10th Avenue NW. The following summary addresses each of these.

- Over-building and increased density

The current R-4 zoning of the two subject parcels allows up to 7 new homes, which amounts to 3.8 units per acre. If R-6 zoning is approved, 11 new homes will be allowed, which is 5.9 units per acre. Although there is no question that density will be increased with the R-6 rezone, the increase in density is minimal.

- Removal of trees

The two subject sites have substantial environmental features including trees and slopes. The Shoreline Development Code allows 6 trees to be cut without a permit; however, trees in the slope area on-site cannot be cut since the slope is considered an environmentally sensitive area with areas of very high landslide hazards.

- Traffic on 10th Avenue NW

Obtaining access to 10th Avenue is unlikely because a) it would entail the crossing of an environmentally sensitive area between the currently undeveloped property and the existing house near 10th, and b) it would require a 20-foot driveway, which could necessitate that a portion of the house be removed.

Will the rezone have merit and value for the community?

7. The proposed rezone will allow an under-developed area of Shoreline to generate more density while still meeting the goals and policies of the Low Density Residential land use designation. This criterion is met since the rezone provides an opportunity to accommodate more dwelling units that complement the existing single-family homes in the neighborhood.

RECOMMENDATION

The Planning Commission recommends that the City Council approve a rezone of the two parcels to R-6.

Date: 15 February 2008

By: Rocky Thun
Planning Commission Chair

ATTACHMENTS

Attachment 1- Zoning Map

Attachment 2- Comprehensive Plan Map

Attachment 3- Neighborhood Meeting Report

Attachment 4- Public Comment Letter

Attachment 5- Applicant's Rezone Criteria

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

February 1, 2007
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

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 – 8TH 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 Broili 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 10th 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 8th 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 – 8th Avenue Northwest and 20320 – 10th 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 10th Avenue Northwest. Mr. Szafran explained that in order to provide access from 10th 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 205th 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 8th 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 – 8th Avenue Northwest and 20320 – 10th 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 10th 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 8th and 10th 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 1st 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 AMENDMETNS 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 Broilli reported that the first ABC Team Meeting was held on January 30th, and they spent time covering the ground rules and allowing participants to express their ideas and opinions. The next meeting is scheduled for February 14th. Commissioner McClelland said the City Manager attended the

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