

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

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

DEPARTMENT: Planning and Development Services

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

I. PROPOSAL

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

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

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

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

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

II. HISTORY OF THE BURT PROPERTY

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

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

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

III. FINDINGS

1. SITE

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

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

2. NEIGHBORHOOD

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

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

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

3. TIMING AND AUTHORITY

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

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

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

4. CRITERIA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The subject parcel is currently zoned R-12. The application to change the zoning of the parcel to R-18 was initiated by the PADS Director in order to make an existing

nonconforming building consistent with the density of the zone. The site's Comprehensive Plan land use designation is *High Density Residential*. Consistent zoning designations for this land use designation include: R-12, R-18, R-24, and R-48.

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

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

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

Water & Sewer

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

Stormwater

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

Traffic/Circulation

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

Tree Removal

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

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

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

The rezone as conditioned will eliminate access from NW 192nd Street.

IV. CONCLUSIONS

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

V. PLANNING COMMISSION ROLE AND OPTIONS

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

Planning Commission has the following options for the application:

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

Staff recommended conditions:

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

VI. PRELIMINARY STAFF RECOMMENDATION

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

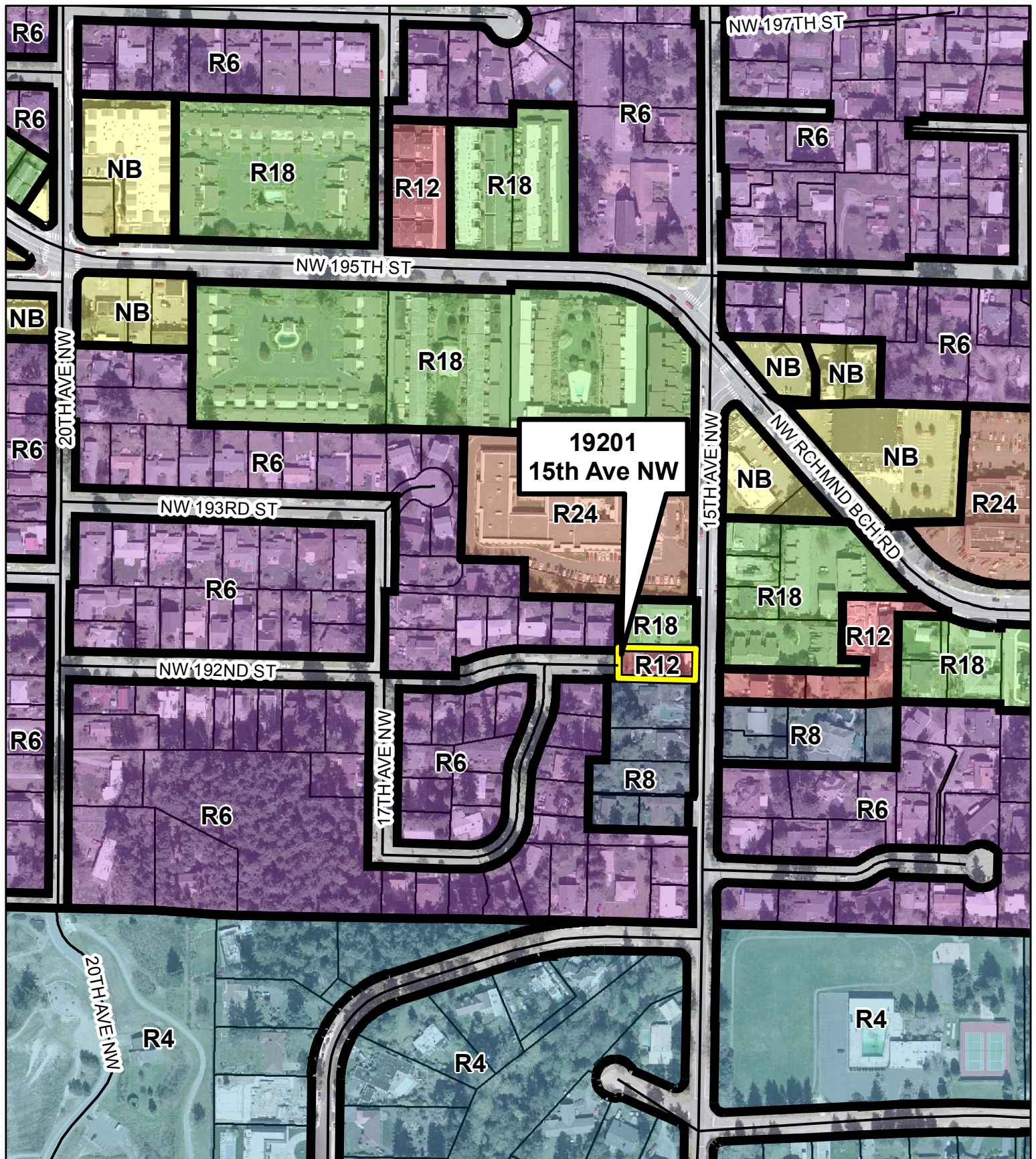
1. Limit the number of units to four.
2. Record a legal document in a form acceptable to the City Attorney that would eliminate the potential vehicular access to NW 192nd Street by tenants of any properties accessing from 15th Ave NW.

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

VII. ATTACHMENTS

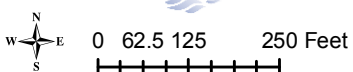
Attachment 1: Vicinity Map with Zoning Designations
Attachment 2: Vicinity Map with Comprehensive Plan Designations
Attachment 3: Site Inventory Map (Burt's rendition of the proposal)
Attachment 4: List of SEPA Comments Received
Attachment 5: Timeline of Burt Property – Site History
Attachment 6: February 23, 2006 Letter from PADS Director to Mr. and Mrs. Burt
Attachment 7: Mr. Burt's Intention Letter

ITEM 7.i – ATTACHMENT 1
Vicinity Map with Zoning Designations



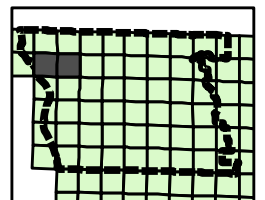
SHORELINE

Geographic Information System
City of Shoreline Zoning



Legend

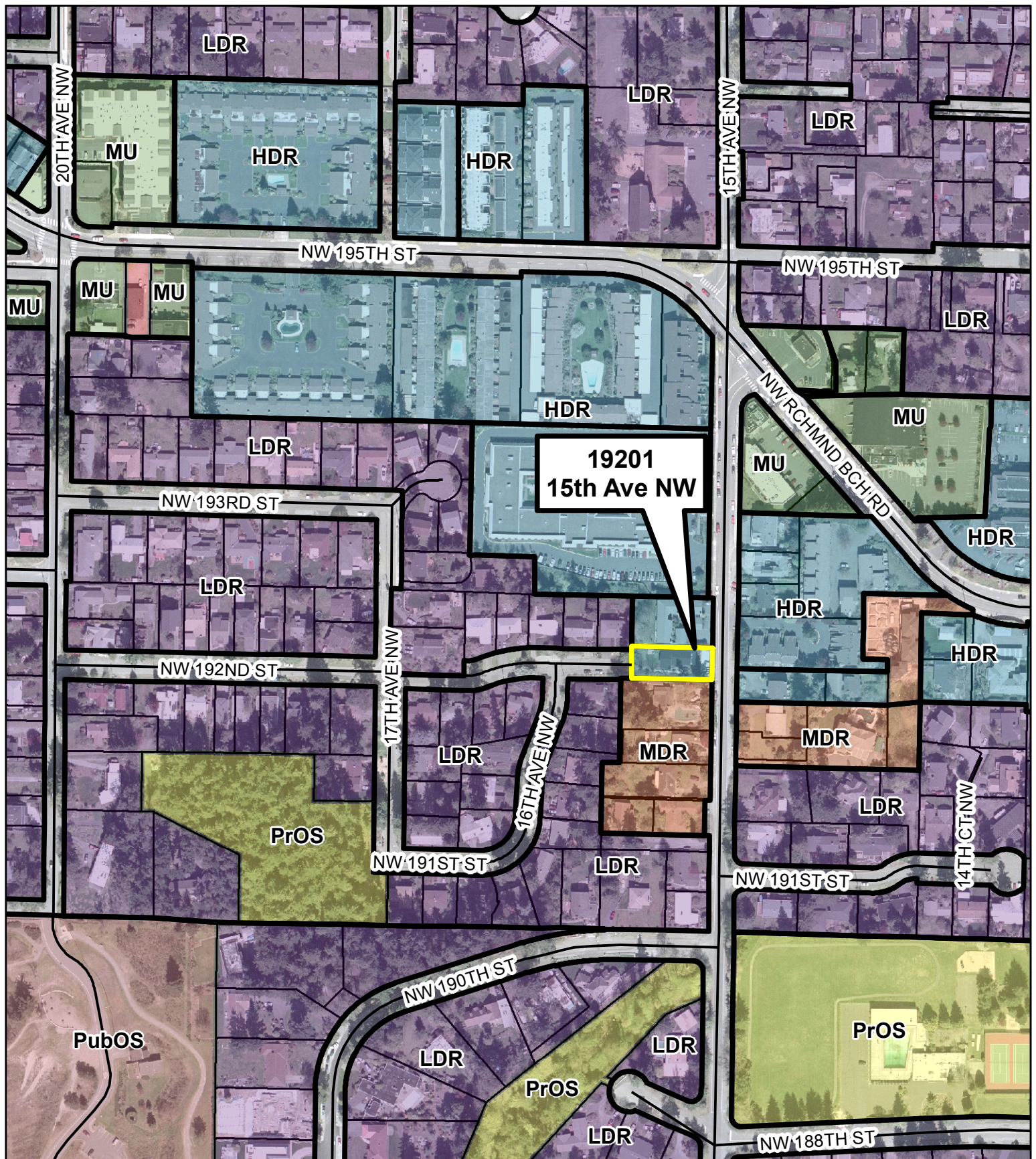
CB - Community Business	R24 - Residential 24 units/Acre	Zone District Boundary
CZ - Contract Zone	R4 - Residential 4 units/Acre	Parcel Line
I - Industrial	R48 - Residential 48 units/Acre	Street
NB - Neighborhood Business	R6 - Residential 6 units/Acre	
NCB - North City Business District	R8 - Residential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



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

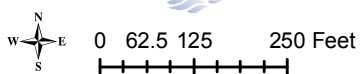
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ITEM 7.i – ATTACHMENT 2
Vicinity Map with Comprehensive Plan
Designations



SHORELINE

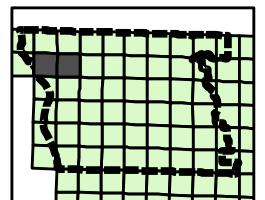
Geographic Information System
City of Shoreline Zoning



Legend

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

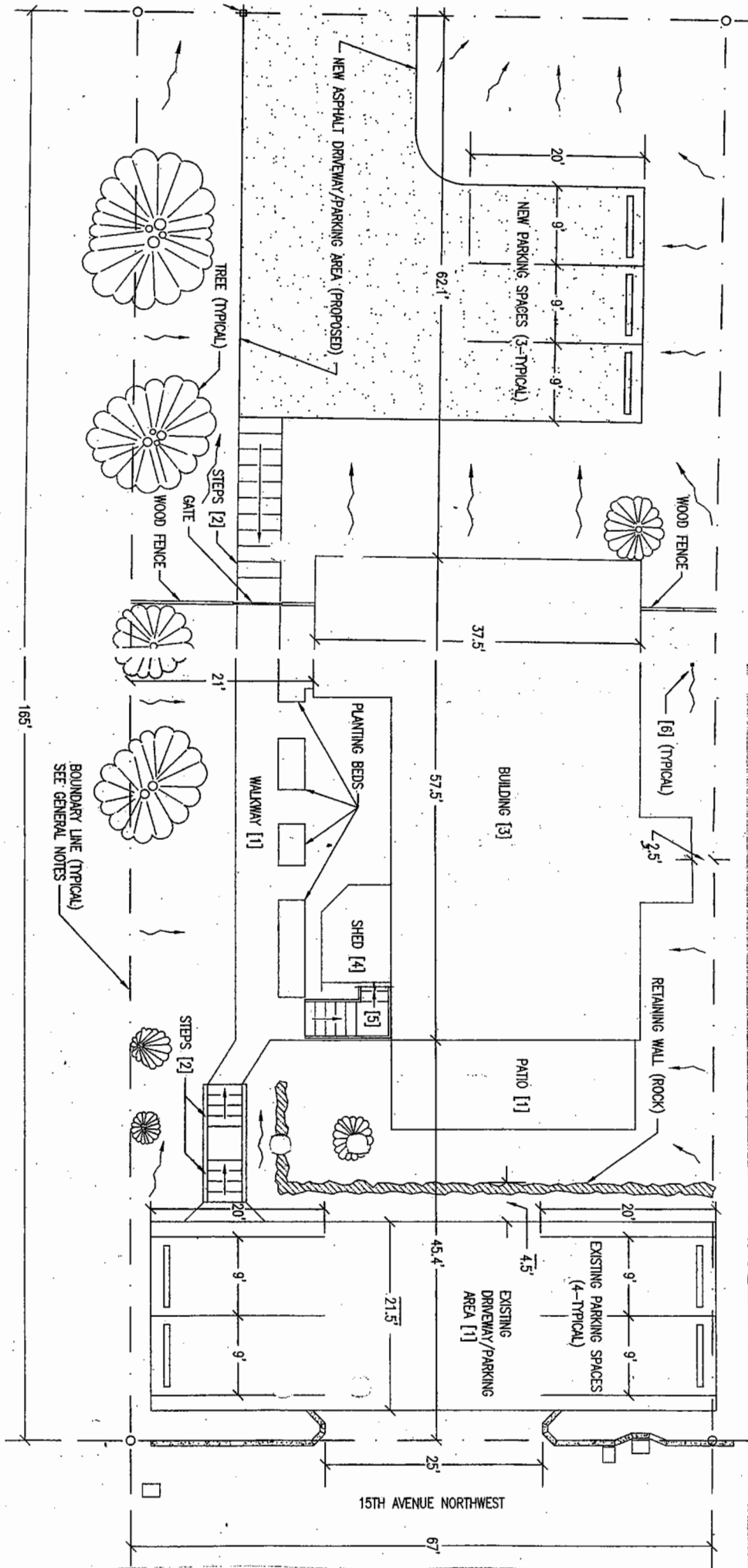
Comprehensive Land Use Boundaries
Parcel Line
Street



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

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ITEM 7.i – ATTACHMENT 3
Site Inventory Map
(Burt's rendition of the proposal)



ITEM 7.i – ATTACHMENT 4
List of SEPA Comments Received

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

O'Brien, Diane Bowers and Bill Kuhn	Not be referred to as a fourplex, traffic impacts, conditions to mitigate environmental impacts, noise and air quality, lighting, landscaping, animals, density, drainage, cut-through traffic, ethics, waiving fees and why is the City giving Mr. Burt preferential treatment?
James Friedman	Letter of support. Moving parking to the rear of lot will relieve parking on 15 th Ave NW.
Hans Nelson	Opposition letter. Why is the City underwriting the cost of rezone?
George Mauer	In violation of current R-12 zoning, reward owner for violating current ordinance, sets a precedent, should remained zoned R-12, increase off-street parking along 15 th Ave NW, traffic along 15 th Ave NW, channel growth along Aurora
Thomas Petersen	Current building was illegally enlarged and remodeled, violates codes and standards, building does not have adequate parking, traffic on NW 192 nd Street.
Gregory Tipple	Traffic on NW 192 nd Street, building renovated without permits, waiving the rezoning fee.
Wilbur Unruh	Additional traffic, drainage problems.
Robert and Monica Roberts	Decrease in property values, increased traffic on NW 192 nd Street, SEPA lacks complete and accurate information.
Diane Bowers	Building violations, access to NW 192 nd Street, addition of illegal units.
Steve Zweifach	Waiving rezone fee, access to NW 192 nd Street.
Marion O'Brien	Parking lot and access to NW 192 nd Street, no sidewalks or curbs, traffic on NW 192 nd Street, drainage and slope impacts, elevation change between parcels, criteria for rezone is not met, decreased property values, waiving rezone fee, preferential treatment of Mr. Burt.
K.A. Brown-Shinabarger	Out of character for the neighborhood, too much development in the area.

ITEM 7.i – ATTACHMENT 5
Timeline of Burt Property
Site History

19201 - 15th Avenue NW – Site History

1976 Year building constructed by Gogert & Sons (according to King County records). It was built as a duplex with a large unit on second floor with smaller unit and 2 garages on the lower floor. Between the garages and lower unit was a storage and utility area. Access was off of 15th Ave NW down a driveway and into the garage spaces.

Review of the historical zoning maps of the property shows that the property has been zoned for 3 dwellings for more than 35 years.

- King County zoned the property RD 3600 (one dwelling unit per 3600 sq. ft. = 3.0 dwelling units) from 1968 - February 2, 1995.
- King County changed the zoning designation of the property R-12 in the zoning atlas dated February 2, 1995 (residential 12 dwelling units per acre) .
- Shoreline did not change the zoning after incorporation. The zoning map adopted soon after incorporation continued the classification of the property as R-12.

1984 King County received permit application to convert duplex to triplex. Permit # 92314 was issued on 01/30/85. Large second floor unit divided into 2 separate units. Lower floor remained the same (smaller unit, 2 garages and storage and utility area). Property owner: John Rock.

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

1/27/2000 City received complaint. Staff issued STOP WORK order for work without a permit. Work observed included the conversion of the garage to a dwelling unit and constructing a rockery without permits.

2/29/2000 Building Permit # 2000-0214 issued. Scope of work under the permit included the conversion of the garage into a dwelling unit. The property owner's submitted plans had a parking lot behind the building accessed from NW 192nd Street.

4/28/2000 SECOND Stop Work Order posted for construction of parking area adjacent to 15th Ave NW.

12/6/2000 R-O-W permit # 2000-001593 issued for parking area adjacent to 15th Ave NW. Final inspection and approval occurred on 4/7/03.

3/1/2001 Building Permit # 2000-0214 expired w/o having been finalized or renewed.

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

8/11/2003 City CRT received complaint – parking at rear of property on pervious surface and possible illegal home occupation. 9/3/2003 complainants expanded the complaint to include the illegal 4th unit.

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

7/6/2004 City received letter signed by 5 households addressed off of NW 192nd street. Issues: Work Without Permit (WWOP), lack of required parking, possibly illegal home occupation, removal/replacement of guardrail at end on NW 192nd Street.

7/8/2004 Issue referred from CRT to code enforcement – Case #1195 initiated.

Complaint research indicated:

1. Vehicles were being parked in the rear yard of the building in violation of the Development Code.
2. The City Public Works Department Traffic Engineer did not object to the removal of the chain where 192nd dead ends. In addition the City's traffic engineer would not recommend that a barrier of any kind be established there.
3. No corroborating evidence of a home occupation was found. One of the apartment dwellers brought a work truck home and the vehicle was not oversized.
4. There appeared to be 2 illegal units.
5. Work had been done without a permit. In addition, the previous WWOP case had been closed when the previous owner had made application for a permit.

August and September 2004 Telephone conversation w/ Pam Burt, wife of owner to discuss items in complaint. Staff met Mr. Burt at property on 8/4/04. He stated structure was 4-plex when he bought it. We discussed the need for meeting parking requirement, the need for permit for rockery at front and other issues.

9/22/2004 No action by Mr. Burt to correct violations. **1st Notice & Order issued.** Violations noted were: 2 illegal units, illegal conversion of garage to habitable space, 2 illegal storage areas, illegal retaining wall, removal of required off-street parking, and need to establish new on-site required parking spaces. Copies sent to complainants.

Sept/Oct, 2004 Mr. Burt maintained that 4th unit had been permitted/allowed under the 2000 building permit. The Director reviewed the case; he determined that there was insufficient evidence to prove the 2000 permit was issued in error.

10/19/2004 **AMENDED Notice & Order** issued requiring 5th unit to be removed and allowing 4th unit IF all *current* development code design standards could be met.

The City provided copies of the drawings approved for Building Permit # 2000-0214 that had been initially submitted by Mr. Thomas Johnson in response to the 2000 Stop Work Order. The City also provided the drawings for the right of way permit (old # 106790) required for the rear parking area access

11/9/2004 Meeting of PADS staff and Mr. & Ms. Burt.

- Staff outlined submittal requirements for plan review, including specifying that the old plans need to be reviewed/revised/updated for compliance w/ 2003 International Building Code.
- The compliance date remained the date stated in the Notice and Order issued in October. The compliance date would remain December 1, 2004.

11/24/2004 Revised plans submitted by Mr. Burt. Application for permit 106790 – convert garage to 1 dwelling unit, add laundry room, build water heater enclosure, install bathroom & kitchen fans, install 4-5 foot rockery and asphalt parking area with onsite detention system.

12/27/2004 Remodel permit 106790 ready to be issued. Fees owing; permit never picked up – application has technically expired.

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

1/2/2005 Staff sent response to 12/30/04 email: "Building permits, site development permits and clearing & grading permits are all examples of Type A actions. Type A actions are classified as ministerial decisions. The Director makes these types of decisions and the decisions are final. An administrative appeal process is not provided for Type A actions."

Complainants she sent a letter on 1/05/05 requesting that the Staff reconsider determination and reinstate original Notice that there are two unauthorized dwelling units.

1/7/2005 Tim Stewart met w/ complaints and followed up with a letter on the same afternoon. Below are his responses to the rear parking area & the 4th unit.

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

3/7/2005 City decides not to issue permit for 4th unit.

3/9/2005 City staff approves right-of-way permit (107181) for access from 192nd Ave NW to the proposed parking area at the rear of the building pending payment of fees.

March-May 2005 Correspondence to & from attorney hired by the Burts and City Attorney's office. Compliance date extended to June 6, 2005.

6/10/2005 Staff memo to City Council. City proposes to waive *permit fees* for restoring structure to tri-plex. Rezone was mentioned as a possibility. Compliance date moved to July 8, 2005.

Mid-June 2005 Mention of City Council initiating the rezone. City Manager's Office requested staff to organize a mediation process to try and resolve issues between the complainants and the Burts.

8/24/2005 Letter from PADS Staff to Burts and complainants inviting them to a meeting with City staff to assess whether resolution can be achieved.

10/3/2005 Meeting held to see if parties could resolve issues and cure violation.

11/17/2005 Follow-up letter from Oct 3 meeting sent. New compliance date of 12/19/05 set for Burt's to submit revised plans for rezone process.

2/23/2006 Letter from PADS Director to the Burts requesting that the Burts contact him by March 10, 2006 to indicate how they intended to proceed.

3/8/2006 Meeting w/ Staff and Mr. & Ms. Burt. Director proposed to initiate and pay costs associated with rezone application and the Burts would be responsible for all building permit fees.

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

3/23/2006 Letter from Director to Burts detailing who is responsible for each action to bring property into compliance.

5/11/2006 City initiates rezone - application # 201518.

7/6/2006 PC Public Hearing for proposed Rezone

ITEM 7.i – ATTACHMENT 6

February 23, 2006

Letter from PADS Director to Mr. and Mrs. Burt



SHORELINE
CITY COUNCIL

Robert L. Ransom
Mayor

Maggie Fimia
Deputy Mayor

Rich Gustafson

Ron Hansen

Keith McGlashan

Cindy Ryu

Janet Way

February 23, 2006

Richard and Pamela Burt
32101 "B" 76th Avenue NW
Stanwood WA 98292

Re: Code Enforcement Case number: **1195**

Dear Mr. & Mrs. Burt:

I am sorry to have missed your phone call earlier this week, but have been unable to reach you at the California phone number you left. When we spoke at the end of last year, I indicated that the code enforcement case against your property is still open, that I would gather more information about the case, and then contact you to clarify the City's intentions. I have reviewed the files on this case, visited the site, and discussed the matter with the City's code enforcement, planning and legal staffs. I am writing to update you on the City's position, the options that are available to you to achieve compliance with the Shoreline Municipal Code, and the consequences of ongoing noncompliance.

To recap, the following are conditions on your property that are in violation of the provisions of the City of Shoreline Land Use and Development ordinance:

1. ILLEGAL DWELLING UNIT

Maintaining unauthorized dwelling units in this multi-family structure in violation of Shoreline Municipal Code 20.50.020. This property is zoned R-12 (medium density residential, 12 units/acre). The legally established use of this property is a 3-unit residential structure (triplex).

2. ILLEGAL CONVERSION TO HABITABLE SPACE

Maintaining the conversion of a garage as habitable space and allowing occupancy when the construction was performed without permits required by the Shoreline Municipal Code chapter 15.05, and Shoreline Municipal Code 20.10.040, 20.20.040 and 20.30.750.

3. ILLEGAL STORAGE STRUCTURES

Allowing the construction of or maintaining two (2) storage areas attached to the primary structure without first obtaining permits required in accordance with the Shoreline Municipal Code chapter 15.05 and Shoreline Municipal Code 20.10.040, 20.20.040 and 20.30.750.

4. REMOVAL OF REQUIRED OFF-STREET PARKING

Failure to provide the required off-street parking spaces in accordance with Shoreline Municipal Code 20.50.390, 20.10.040, 20.20.040, and 20.30.750.

5. PARKING IN REQUIRED SETBACK

Allowing the parking/storage of vehicles in the required front setback in violation of Shoreline Municipal Code 20.50.020(A) and 20.30.750.

As you recall, December 19, 2005 was the date stipulated for you to have an accurate site plan and proposed parking solutions submitted to Paul Cohen at the City of Shoreline Planning and Development Services. My understanding is that you had agreed to submit that information during the meeting with City staff on October 3, 2005. After your submittal of the accurate scale drawing showing how the required parking could be accommodated, and once you had committed to striping or otherwise implementing an approved parking plan, then the City staff would be willing to initiate a request to rezone the property from R-12 to R-18 which, if approved, would make it legal to have a fourth unit (subject to building permit approval). For whatever reason, you have failed to submit the required information by the established deadline. Therefore, the property remains in noncompliance both as to the parking requirements and density requirements of the Shoreline Code.

Because you have not taken action to achieve compliance, I regretfully must inform you that the City is compelled to commence enforcement action(s) as stipulated in Shoreline Municipal Code 20.30.740. This enforcement action may include the following:

1. Issue class I civil infractions in the amount of \$250.00 per day per violation; and/or
2. Assess civil penalties, starting on the date of December 19, 2006, in the amount of \$500.00 per violation for the first fourteen-day period or portion thereof during which the violation is committed, continued, permitted or not corrected. The penalties for the next fourteen day period shall be one hundred fifty percent of the initial penalties, and the penalties for the next fourteen day period and each such period or portion thereafter, shall be double the amount of the initial penalties. If any assessed civil penalty, fee or cost is not paid on or before the due date, the Director may charge the unpaid amount of the penalty as a lien against the property where a code violation occurred and as a joint and several personal obligation of all responsible parties; and/or

3. Proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of all responsible parties.

If you decide to correct the violations, please be aware that Shoreline Municipal Code 20.30.770(E) stipulates that it is your duty to notify this office of any actions taken to achieve compliance. Please be aware that, the permit applications you submitted in 2004 have expired. Action to correct the violations will require submittal of new permit applications and applicable fees.

I realize that this is not the City response for which you may have been hoping. We have tried to be flexible as to the time allowed for you to address this issue, and volunteered to help with the rezoning at no cost to you, but your failure to take steps to achieve compliance leave us with no choice. It is our responsibility to pursue this matter until compliance with the law is achieved. Until that happens, we will not close this case.

Please contact me by Friday, March 10, 2006 to indicate how you intend to proceed. As I see it, you have three options.

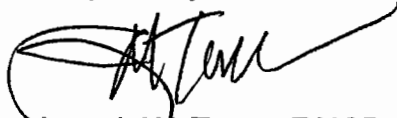
First, you still have the option to submit an accurate site plan and options on accommodating the parking, and the City staff will initiate the rezone proposal. While we believe we can make a compelling case to the City Planning Commission and to the City Council to approve such a rezone, we cannot guarantee the outcome. If you choose this option, we will suspend accrual of penalties or fines pending the outcome.

Your second option is to proceed with compliance actions outlined in the second amended notice and order to correct dated March 14, 2005 (attached).

Your third option would be to do nothing. If you do not contact me by the March 10, 2006 deadline to indicate how you intend to achieve compliance, I must presume that you have chosen ongoing noncompliance. If that is your choice, you are on notice that on March 11 we will proceed with the enforcement infractions, penalties, and abatement described above. Further, if you do contact me but fail to immediately take action to bring the property into compliance, we will proceed with the enforcement action described.

Letter to Burt
Case 1195
Page 4 of 4

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Tovar', written over a circular stamp or seal.

Joseph W. Tovar, FAICP
Director, Planning and Development Services

cc: Flannary Collins, Assistant City Attorney
Rachael Markle, Assistant Director, PADS
Kristie Anderson, Code Enforcement Officer
Debra Peterson, Shannon Clark & Marion O'Brien

Enclosure: Second Amended Notice and Order to Correct



Planning and Development Services

17544 Midvale Avenue North
Shoreline, WA 98133-4921
(206) 546-1811 ♦ Fax (206) 546-8761

SECOND AMENDED NOTICE AND ORDER TO CORRECT

March 14, 2005

Richard and Pamela Burt
32101 "B" 76th Avenue NW
Stanwood WA 98292

Re: Code Enforcement Case number: **1195**

Dear Mr. & Ms. Burt:

You are hereby notified that the Director of Planning and Development Services has found you to be the responsible party for a code violation located at:

ADDRESS OF VIOLATION: 19201 15TH AVENUE NW

PARCEL NUMBER: 0226039205

LEGAL DESCRIPTION: The east 185 feet of the north half of the north half of the southeast quarter of the northeast quarter of the southeast quarter of section 2, township 26 north, range 3 east, Willamette Meridian, in King County, Washington; except the north 100 feet, and except any portion lying within 15th avenue northwest; and except any portion lying within the plat of Glen Arden, according to the plat thereof, recorded in Volume 58 of Plats, page 94, in King County, Washington.

VIOLATION

An inspection has verified a violation at the subject property. The property was found to be in violation of the Shoreline Development Code that is Chapter 20 of the Shoreline Municipal Code. Violation of provisions of the City of Shoreline land use and development ordinance constitutes a public nuisance. The following are conditions that render the subject property a public nuisance.

1. ILLEGAL DWELLING UNITS

Maintaining unauthorized dwelling units in this multi-family structure in violation of Shoreline Municipal Code 20.50.020. This property is zoned R-12 (medium density residential, 12 units/acre). The legally established use of this property is a 3-unit residential structure (triplex).

2. ILLEGAL CONVERSION TO HABITABLE SPACE

Maintaining the conversion of a garage as habitable space and allowing occupancy when the construction was performed without permits required by the Shoreline Municipal Code chapter 15.05 which adopts the International Building Code pursuant to RCW 19.27.031 and Shoreline Municipal Code 20.10.040, 20.20.040 and 20.30.750

3. ILLEGALLY INSTALLED ROCKERY

Allowing the construction of or maintaining a rockery exceeding 4 feet in height constructed without obtaining permits required in accordance with the Shoreline Municipal Code chapter 15.05 which adopts the International Building Code pursuant to RCW 19.27.031 and Shoreline Municipal Code 20.10.040, 20.20.040 and 20.30.750

4. ILLEGAL STORAGE STRUCTURES

Allowing the construction of or maintaining two (2) storage areas attached to the primary structure without first obtaining permits required in accordance with the Shoreline Municipal Code chapter 15.05 which adopts the International Building Code pursuant to RCW 19.27.031 and Shoreline Municipal Code 20.10.040, 20.20.040 and 20.30.750

5. REMOVAL OF REQUIRED OFF-STREET PARKING

Failure to provide the required off-street parking spaces in accordance with Shoreline Municipal Code 20.10.040, 20.20.040, 20.30.750 and 20.50.390.

6. PARKING PROHIBITED IN REQUIRED SETBACK

Allowing the parking/storage of vehicles in the required front setback in violation of Shoreline Municipal Code 20.10.040, 20.30.750 and 20.50.020(A).

7. PARKING PROHIBITED ON PERVIOUS SURFACE

Allowing the parking/storage of vehicles on a pervious surface (grass and dirt) in violation of Shoreline Municipal Code 20.70.020 (section 2, 19).

Required Corrective Action

The Director has determined that the violations on the subject property must be corrected with the following actions:

Violations 1.

Restore the structure to the legal use as a triplex or provide evidence of the legal establishment of the fourth unit. To restore the structure to a triplex will require revisions to permit application #106790 that indicate which units are being removed and detail the demolition necessary for the removal of units in excess of three. As

an alternative, a rezone application may be filed to change the property zoning to R-18

Violations 2, 3 and 4.

Obtain the necessary permits (#106790) and call for and pass all required inspections and approvals.

Violations 5.

Establish and install the required number of off-street parking spaces, including obtaining the necessary right-of-way permit (#107181) and passing all required inspections and approvals.

Violations 6.

Remove or otherwise prohibit parking in the front setback area. The front setback for that property is ten (10) feet measured from the property line inwards toward the structure.

Violations 7.

Prohibit parking on pervious surface by physical barrier, specifically on the rear area of the property. As an alternative, obtain and install the off-street parking area as approved in permits #106790 and 107181.

Compliance Date

All permits required to perform the corrective action and legalize the alterations to the property must be obtained from the City or other issuing agency. A complete and acceptable revised application for permit #106790 or the application for the rezone must be received by the City on or before April 30, 2005. Right-of-way permit #107181 must be obtained from the City and the illegal parking removed or prohibited by April 30, 2005.

The required corrective actions and final approval of the work must be completed on or before 120 days after the permits are ready for issuance.

The date set for compliance in this Notice and Order takes precedence over any date established for the expiration of any required permit(s) and will be subordinate only to written extension of the Notice and Order.

An extension of the compliance date(s) may be granted at the discretion of the Director. Substantial progress towards compliance is a condition for granting an extension. Requests for extensions must be made at least seven days before the established compliance date. Requests for extensions should be made in writing and shall include a description of the work completed, the reason for the extension request and a detailed workplan with the proposed completion date. An inspection will be conducted to determine that substantial progress has been made toward compliance before an extension can be granted or denied.

Penalties

You are further notified that if the required corrective actions are not completed within the specified time, the Director may:

1. Issue class I civil infraction in the amount of \$250.00 per violation.
2. Assess civil penalties in the amount of \$500.00 per violation for the first fourteen-day period or portion thereof during which the violation is committed, continued, permitted or not corrected. The penalties for the next fourteen day period shall be one hundred fifty percent of the initial penalties, and the penalties for the next fourteen day period and each such period or portion thereafter, shall be double the amount of the initial penalties. If any assessed civil penalty, fee or cost is not paid on or before the due date, the Director may charge the unpaid amount of the penalty as a lien against the property where a code violation occurred and as a joint and several personal obligation of all responsible parties;
3. Proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of all responsible parties;
4. Submit this matter to Superior Court for injunctive relief; and/or
5. Recommend to the City Attorney the filing of criminal misdemeanor charges.

Appeal

Any person named in this Order or having any record or equitable title in the property against which the Notice and Order is recorded may request an appeal of the Notice and Order within fourteen days of the date of service of this Order. A Notice of Appeal must be filed in writing with the City Clerk no later than 5:00 p.m. within fourteen days following the service of this Order. An appeal fee of \$380.00 is required at the time of filing an appeal. Appeals are conducted under the Shoreline Rules for Procedures for Administrative Hearings available from the City Clerk.

Failure to appeal within fourteen days renders the Notice and Order a final determination that the conditions described in the Notice and Order existed and constituted a code violation, and that the named party is liable as a responsible party.

This Notice and Order may be recorded against the property in the King County Office of Records and Elections.

As the responsible party, it is your duty to notify the Director of any actions taken to achieve compliance with the Notice and Order. You may request a compliance inspection by calling (206) 546-0783.

Notice & Order (1195)

Burt

Page 5 of 5

For specific questions regarding compliance with this Order, please contact Kristie Anderson, Code Enforcement Officer, 206-546-0783

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristie Anderson', written in a cursive style.

Kristie Anderson

Code Enforcement Officer

Planning and Development Services

ITEM 7.i – ATTACHMENT 7
Mr. Burt's Intention Letter

June 16, 2006

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

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

To Whom It May Concern:

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

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

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

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

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

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

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

Sincerely,



Richard and Pamela Burt