

**From:** [Dave Lange](#)  
**To:** [City Council](#); [Janet Way](#)  
**Subject:** Comments for the 185th Station Subarea and the 145 Station Subarea  
**Date:** Monday, February 23, 2015 12:55:35 PM  
**Attachments:** [Clarify the SFR future.docx](#)

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Please include the attached document into the Council comments for the 2 subareas.

Dave Lange

The following is a self study I did to further investigate the role of single-family detached housing in MUR-85 using a sample period of 1 year following station going into operation. The City Manager and the planning staff continue to say a SFR owner will not be forced to sell. Those of us in the vast area covered by MUR 85 or soon to be MUR 70 zones are convinced that selling is our only choice and the Council's recent votes have continued to tip the negotiation table significantly toward the developers and away from your constituents.

These comments are mainly text extracted from the packet being distributed for the 185 street subarea plan and documents they refer to. I looked for the terms and concepts of Nonconforming Lots and Permitted Use. My question is when a lot is eventually "orphaned" in a MUR 85 zone, will Single Family Detached be a permitted use? This question isn't what happens to create the first multifamily or mixed use structure, but much later when the Single Family Residence is a remaining minority and has no aggregation options.

I have decided this is worth reporting to the council and will preface these finding saying we are not asking for special favors, we are requesting a practice that leaves existing property standards in place if a current SFR/R6 unit is the immediate adjoining neighbor.

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Starting with the Amendment Matrix:

Also provided on this updated version of the Amendment Matrix are a few updated staff responses to Councilmember amendments. Most notably, staff has updated their response to Matrix Question #24 regarding new detached single family dwellings in MUR zones and allowing for more flexible non-conforming conditions for detached single family homes.

A. Single-family detached dwellings are permitted in the MUR-35', MUR-45', and MUR-85' zones subject to the R-6 development standards in SMC 20.50.020

B. Single-family detached dwellings are permitted in the MUR-85' Zone until 2023 or when the light rail station begins operation, whichever is later. After 2023 or when the **light rail station begins operation**, single-family detached dwellings will become a **non-permitted use** and will be classified as a **nonconforming use** subject to the provisions of SMC 20.30.280:

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Under SMC 20.30.280 in Subchapter 5, C. Continuation and Maintenance of Nonconformance (A nonconformance may be continued or physically maintained as provided by this code.)

1. Any nonconformance that is brought into conformance for any period of time shall forfeit status as a nonconformance.
2. Discontinuation of Nonconforming Use. A nonconforming use shall not be resumed when abandonment or discontinuance extends for 12 consecutive months.
3. Repair or Reconstruction of Nonconforming Structure. Any structure nonconforming as to height or setback standards may be repaired or reconstructed; provided, that:
  - a. **The extent of the previously existing nonconformance is not increased;**

b. The building permit application for repair or reconstruction is submitted within 12 months of the occurrence of damage or destruction; and

4. **Modifications to Nonconforming Structures.** Modifications to a nonconforming structure may be permitted; provided, the modification does not increase the area, height or degree of an existing nonconformity. **“Single family additions shall be limited to 50 percent of the use area, conform with R-6 density and dimensional standards and do not require a conditional use permit in the MUR-85' zone.”**

E. Any **permitted use** may be established on an **undersized lot**, which cannot satisfy the lot size or width requirements of this code; provided that:

1. **All other applicable standards of the code are met; or a variance has been granted;**
2. **The lot was legally created and satisfied the lot size and width requirements applicable at the time of creation;**
3. The lot cannot be combined with contiguous undeveloped lots to create a lot of required size;
4. No unsafe condition is created by permitting development on the nonconforming lot;...

F. **Nonconformance Created by Government Action.**

1. Where a lot, tract, or parcel is occupied by a lawful use or structure, and where the acquisition of right-of-way, by eminent domain, **dedication** or purchase, by the **City** or a County, State, or Federal agency creates noncompliance of the use or structure regarding any requirement of this code, such use or structure shall be deemed lawful and subject to regulation as a nonconforming use or structure under this section.

2. Existing signs that are nonconforming may be relocated on the same parcel if displaced by government action provided setback standards are met to the extent feasible. If an existing conforming or nonconforming sign would have setbacks reduced below applicable standards as a result of government action, the sign may be relocated on the same parcel to reduce the setback nonconformity to the extent feasible. To be consistent with SMC [20.50.590\(A\)](#), the signs shall not be altered in size, shape, or height.

3. **A nonconforming lot created under this subsection shall qualify as a building site pursuant to RCW [58.17.210](#), provided the lot cannot be combined with a contiguous lot(s) to**

**create a conforming parcel.** (Ord. 669 § 1 (Exh. A), 2013; Ord. 515 § 1, 2008; Ord. 352 § 1, 2004; Ord. 238 Ch. III § 6, 2000).

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In RCW 58.17.210 we see:

No building permit, septic tank permit, or other development permit, shall be issued for any lot, tract, or parcel of land divided in violation of this chapter or local regulations adopted pursuant thereto **unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby.** The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this chapter and each purchaser or transferee may recover his or her damages from any person, firm, corporation, or agent selling or transferring land in violation of this chapter or local regulations adopted pursuant thereto, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may as an **alternative to conforming his or her property to these requirements, rescind the sale** or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned thereby.

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So far this looks like the survivability of SFR is far from certain once the light rail is operating in Shoreline. Next we find more information at [fanniemae.com](http://fanniemae.com) which still handles a majority of the residential mortgages in the country. From the page title ending in: [selling/b4/1.3/04.html](http://selling/b4/1.3/04.html) it discusses the role of the appraiser:

The appraiser must report the specific zoning class in the appraisal, along with a general statement as to what the zoning permits, such as one- or two-unit, when he or she indicates a specific zoning such as R-1 or R-2. The appraisal must indicate whether the subject property presents

a legal conforming use,  
**a legal non-conforming (grandfathered) use,**  
an illegal use under the zoning regulations, or  
that there is no local zoning.

Fannie Mae only purchases or securitizes mortgage loans on properties if the improvements constitute a legal conforming use of the land. However, Fannie Mae will purchase or securitize a mortgage for a property that **constitutes a legal, non-conforming use** of the land in the following scenarios:

the property is a one- to four-unit property or a unit in a PUD and the use of the land and the appraisal analysis reflects any adverse effect that the non-conforming use has on the value and marketability of the property; or the property is a condo unit or co-op share loan and the improvements can be rebuilt to current density in the event of partial or full destruction, and the mortgage file includes either a copy of

the applicable zoning regulations or **a letter from the local zoning authority that authorizes reconstruction to current density** [we have heard Shoreline's Miranda quoting this!].

Fannie Mae will not purchase or securitize a mortgage secured by a property that is subject to certain land-use regulations, such as coastal tideland or wetland laws, that create setback lines or other provisions that prevent the reconstruction or maintenance of the property improvements if they are damaged or destroyed. The intent of these types of land-use regulations is to remove existing land uses and to stop land development, including the maintenance or construction of seawalls, within specific setback lines.

For information regarding accessory units that comply or do not comply with zoning, see B4-1.3-05, Improvements Section of the Appraisal Report.

### Highest and Best Use

Fannie Mae will only purchase or securitize a mortgage that represents the highest and best use of the site as improved. If the current improvements clearly do not represent the highest and best use of the site as an improved site, it must be indicated on the appraisal report.

The appraiser determines highest and best use of a site as the reasonable and probable use that supports the highest present value on the effective date of the appraisal. For improvements to represent the highest and best use of a site, they must be legally permitted, financially feasible, and physically possible, and must provide more profit than any other use of the site would generate. All of those criteria must be met if the improvements are to be considered as the highest and best use of a site.

The appraiser's highest and best use analysis of the subject property should consider the property as it is improved. This treatment recognizes that the existing improvements should continue in use until it is financially feasible to remove the dwelling and build a new one, or to renovate the existing dwelling. If the use of comparable sales demonstrates that the improvements are reasonably typical and compatible with market demand for the neighborhood, and **the present improvements contribute to the value of the subject property so that its value is greater than the estimated vacant site value, the appraiser should consider the existing use as reasonable and report it as the highest and best use.**

### Adjoining Properties

The appraiser must consider the present or anticipated use of any **adjoining property that may adversely affect the value or marketability of the subject property.**

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### Results

The current Shoreline City Council planned action to sunset Single Family Residences triggered by the start of station operations will force owners to sell (and move) at an inopportune time as SFR becomes

non-permitted and non-conforming. When the Shoreline City Council purposely ignores the existing inventory in a neighborhood when it proposes amendments with the intent of not restricting growth of the next generation of structures, it is effectively crowding existing R6 properties and reducing the market value of the improved property and forcing funding choices for unimproved land which are much less competitive. Please change the wording to "legally non-conforming and permitted".

It is a common interest of both the landowners and the city to preserve single family home market value so that residents are comfortable owning their homes (which most people consider their largest asset) as a liquid asset in terms of the time required to sale and an unrestricted population of buyers.

Dave Lange  
Resident and Owner