

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

July 6, 2006
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

COMMISSIONERS PRESENT

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

STAFF PRESENT

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

COMMISSIONERS ABSENT

Commissioner Broili

CALL TO ORDER

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

ROLL CALL

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

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

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

GENERAL PUBLIC COMMENT

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

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

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

Staff Overview and Presentation of Preliminary Staff Recommendation

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

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

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

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

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

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

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

Applicant Testimony

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

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

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

Questions by the Commission to Staff

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

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

Public Testimony or Comment

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

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

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

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

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

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

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

Planning Commission would allow this to take place. In addition to narrow roads and blind corners, small children and elderly people use these roads, which have no sidewalks. If the City must rezone the property in spite of the fact that he has violated the law and ignored the demands of the City to remove the illegal units in the building, she asked that parking be required to stay on 15th Avenue Northwest. Northwest 192nd Street has always been a narrow residential dead end road, and the City should make sure it stays that way into perpetuity. She thanked the City staff for making this a condition of the rezone.

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

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

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

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

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

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

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

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

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

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

Presentation of Final Staff Recommendation

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

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

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

Final Questions by the Commission and Commission Deliberation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- **THAT THE NUMBER OF UNITS ON THE SITE BE LIMITED TO FOUR.**
- **THAT A LEGAL DOCUMENT BE FILED IN A FORM ACCEPTABLE TO THE CITY ATTORNEY THAT WOULD REQUIRE THE RESTORATION AND MAINTENANCE OF THE ACCESS BARRIER AT THE EAST END OF NORTHWEST 192ND STREET.**

- **THAT A 10-FOOT LANDSCAPE BARRIER BE INCLUDED ALONG THE WEST END OF THE SUBJECT PARCEL TO LIMIT THE IMPACT OF THE HIGHER DENSITY DEVELOPMENT. COMMISSIONER PHISUTHIKUL SECONDED THE MOTION.**

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

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

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

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

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

Commissioner Hall pointed out that the Commission did not receive all of the comment letters that are identified in the Staff Report. Mr. Tovar said that all of the letters are on file in the City office. Commissioner Hall pointed out that only eight people spoke during the public hearing, but 52 people have also provided written comments. Of the written comments, 51 were opposed to the proposed

rezone and one was in support. He has a hard time giving weight to the written comments because they are not part of the record before the Commission. The remainder of the Commission agreed with Commissioner Hall's concern. They discussed the option of continuing the hearing to a future meeting.

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

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

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

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

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

Vice Chair Kuboi was excused from the meeting at 8:30 p.m.

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

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

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

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

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

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

COMMISSIONER PYLE SECONDED THE MOTION.

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

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

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

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

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

Closure of the Public Hearing

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

Vote by Commission to Recommend Approval, Denial or Modification

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

STUDY SESSION ON DEVELOPMENT CODE AMENDMENT PACKAGE #1

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

Mr. Tovar explained that as the staff reviewed the existing Shoreline Municipal Code (SMC), the internal development guide, and past practices for dealing with permit issues, it became clear that some

systemic problems must be fixed. Some can only be resolved by amending the SMC, and that is the purpose of Development Code Amendment Package 1.

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

- **Amendment 1** would clarify when a site development permit is needed.
- **Amendment 2** would add language referring to procedural requirements for a pre-application meeting and to better inform an applicant during the meetings as to what permits might be necessary and what the time frames would be.
- **Amendment 3** is a new code section referring to site development permits. At this time, it is not clear when a site development permit is needed.
- **Amendment 4** would delete condominiums from requiring a binding site plan. A binding site plan would only be used for commercial and industrial development in Shoreline.
- **Amendment 5** has to do with modifying building coverage and impervious areas for “zero” lot line developments. The maximum coverage would still apply to the overall site, but the individual “zero” lot line lots would be allowed flexibility.
- **Amendment 6** applies to driveways. Currently, the development code requires a 5-foot setback for residential driveways from a property line. Most of the short plats coming into the City are on existing lots with homes where they may not have enough room to provide a new driveway to a new back lot. Other sections of the code allow anything less than 18 inches tall (patio, deck, etc.) to go up to the property line, so a driveway should be allowed to do the same.
- **Amendment 7** reorganizes the easement and tract language. No new language was proposed.
- **Amendment 8** would allow private streets to be located within an easement. This would allow a property owner more flexibility and could result in the potential for creating an additional building lot.

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

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

Commissioner Harris referred to **Amendments 6** and **8** which would allow driveways within all required setbacks and private streets within an easement. He explained that easements, tracts and driveway widths are three very well-used issues to either limit or encourage back lot development. He

asked if there has been a recent change in philosophy to try to encourage development of some of the back lots. Mr. Tovar said this change was generated by the staff. He said direction from the Growth Management Act is to use the urban land more efficiently. This does not mean putting too much density where it is not appropriate, but many of the existing code requirements make it difficult for property owners to do infill development on the passed-over pieces of property.

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

REPORTS OF COMMITTEES AND COMMISSIONERS

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

UNFINISHED BUSINESS

Director's Report

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

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

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

NEW BUSINESS

No new business was scheduled on the agenda.

ANNOUNCEMENTS

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

AGENDA FOR NEXT MEETING

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

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

ADJOURNMENT

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

Rocky Piro
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission