

ORIGINAL

ORDINANCE NO. 438

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP TILE NUMBER 443 CHANGING THE ZONING FROM RESIDENTIAL 12 DU-AC (R-12) TO RESIDENTIAL 18 DU-AC (R-18) WITH CONTRACT REZONE R-CZ-06-02, SUBJECT TO RESTRICTIVE COVENANTS, FOR THE PARCEL LOCATED AT 19201 15th AVENUE NW (PARCEL NUMBER 0226039205).

WHEREAS, the City of Shoreline and the owner of the property of parcel number 0226039205 have filed an application to reclassify the property from Residential 12 units per acre (R-12) to Residential 18 units per acre (R-18); and

WHEREAS, on July 6th, 2006, a public hearing on the application for reclassification of property was held before the Planning Commission for the City of Shoreline pursuant to notice as required by law; and

WHEREAS, on July 6th, 2006, the Planning Commission recommended approval of the reclassification to R-18 as well as a number of conditions for redevelopment, subject to a covenant restricting the uses and setting conditions of development as specified in the Contract Zone and Concomitant Zoning Agreement R-CZ-06-02 and entered findings of fact and conclusions based thereon in support of that recommendation; and

WHEREAS, the City Council does concur with the Findings and Determinations of the Planning Commission specifically that the reclassification of property, located at 19201 15th Ave. NW (parcel number 0226039205) to R-18 is consistent with the goals and policies of the Comprehensive Plan and appropriate for this site;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:

Section 1. Findings. The Findings and Determinations on File No. 201518 as set forth by the Planning Commission on July 6th, 2006 and as attached hereto as Exhibit A is hereby adopted.


Section 2. Amendment to Zoning Map. The Official Zoning Map Tile 443 of the City of Shoreline is hereby amended to change the zoning classification of said parcel described and depicted in Exhibit B located at 19201 15th Ave. NW (parcel number 0226039205) from R-12 to R-18 with Contract Rezone R-CZ-06-02 subject to the Concomitant Zoning Agreement attached hereto as Exhibit C, which covenant is incorporated herein as part of this ordinance by reference, and all uses of the property rezoned by this ordinance shall be in strict conformity with the provisions of the concomitant zoning agreement. Nothing in this ordinance or the concomitant zoning agreement attached hereto shall limit the Shoreline City Council from amending, modifying, or terminating the land use designation adopted by this ordinance.

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Section 3. Severability. If any provision of this ordinance or the application of a provision to any person or circumstance is declared invalid, then the remainder of this Ordinance, or the application of such provision to other persons or circumstances, shall not be affected.

Section 4. Effective Date. This ordinance shall go into effect five days after passage, publication of the title as a summary of this ordinance and the property execution and recording of the Concomitant Zoning Agreement attached hereto as Exhibit C; provided, that if such agreement is not executed and recorded within thirty (30) days from the date of final passage of this ordinance, this ordinance shall become void and not go into effect. If owners of the property file a written request, the property shall revert to the original land use designation prior to this rezone or such other default land use designation as may hereafter be adopted by the City Council.

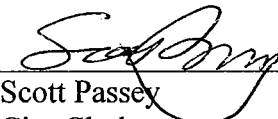
PASSED BY THE CITY COUNCIL ON AUGUST 28, 2006.




Mayor Robert L. Ransom

ATTEST:

APPROVED AS TO FORM:



Scott Passey
City Clerk



Ian Sievers
City Attorney

Date of Publication: August 31, 2006
Effective Date: September 5, 2006

**FINDINGS AND DETERMINATION OF THE CITY OF SHORELINE PLANNING
COMMISSION**

Rick Burt Rezone Request File #201518

Summary-

Following the public hearing and deliberation on the request to change the zoning designation for a 11,020 Sq. Ft. parcel located at 19201 15th Avenue NW, the City of Shoreline Planning Commission has determined that the request is in compliance with City codes and not detrimental to the health, safety, or welfare of the City of Shoreline, and therefore recommends approval of such action.

I. FINDINGS OF FACT**1. Project Description-**

- 1.1 Rezone the subject parcel from R-12 (Residential 12 units per acre) to R-18 (Residential 18 units per acre) in order to make the existing number of units on the site (4) conforming to the zoning.
- 1.2 Site Address: 19201 15th Avenue NW
- 1.3 Parcel Number: 0226039205
- 1.4 Zoning: R-12
- 1.5 The subject property has a current land use designation of High Density Residential identified on the City of Shoreline's Comprehensive Plan Land Use Map. A High Density Residential designation is consistent with the following zoning: R-12, R-18, R-24 and R-48.

2. Procedural History-

- 2.1 Public hearing held by the Planning Commission: July 6th, 2006
- 2.2 Notice of Public Hearing and SEPA Determination of Nonsignificance: June 1st, 2006
- 2.3 End of 14 day Public Comment Period: May 25th, 2006
- 2.4 Notice of Application with Optional DNS: May 11th, 2006
- 2.5 Complete Application Date: April 24th, 2006
- 2.6 Application Date: March 23rd, 2006
- 2.7 Neighborhood meeting Date: April 17th, 2006

3. Public Comment-

3.1 The following individuals participated in Neighborhood Meetings:

21 people signed the mailing list at the required Neighborhood Meeting. General consensus was that the neighborhood is concerned about the illegal structure (four units on a site where the zoning permits only three), traffic, work without permits and preferential treatment of the property owner.

3.2 Written Comments have been received from:

Approximately 60 letters were received in response to the standard notice procedures for this application.

3.3 Oral testimony has been received from:

In addition to the applicant, seven adjacent property owners testified at the open record public hearing. The comments included: Access, traffic, work without permits and the illegal structure.

4 SEPA Determination-

4.1 The optional DNS process for local project review, as specified in WAC 197-11-355, was used. City staff determined that the proposal will not have a probable significant adverse impact on the environment and that an environmental impact statement is not required under RCW 43.21C.030 (2) (c). A notice of determination of nonsignificance was issued on June 1st, 2006.

7. Consistency –

5.1 Site Rezone:

The application has been evaluated and found to be consistent with the five criteria listed in Shoreline Municipal Code Section 20.30.320 (B).

5.2 A recommendation to approve the Rezone does not constitute approval for any development proposal. Applicable permits shall be obtained prior to construction. Permit applications shall show compliance with the 1998 King County Storm Water Design Manual and Title 20 of the Shoreline Municipal Code (SMC). Applicable sections of the SMC include but are not limited to the following: Dimensional and Density Standards

20.50.010, Tree Conservation 20.50.290, Surface and Stormwater Management 20.60.060, and Streets and Access 20.60.140 and any conditions of the Rezone.

II. CONCLUSIONS

SITE REZONE:

Rezoning is subject to criteria contained in the Development Code. The proposal must meet the decision criteria listed in Section 20.30.320(B) of the SMC. The criteria are listed below, with a brief discussion of how the request meets the 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 legal in the zoning designation of R-18.

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 illegal, its existence has not had an adverse impact on the neighborhood.

The Commission does not believe that this rezone will cause additional 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, the Commission proposes several conditions. They are:

- A condition to block access to NW 192nd Street along the western border of the subject site for any tenant in perpetuity. By eliminating 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.
- Limit the number of units to four.
- Prohibit access easements across the site to serve other property owners
- Require a 10 foot wide, Type I landscape buffer along the western edge of the property.

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 illegal 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.

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

There appear 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 and east.

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. In addition, the rezone as conditioned will eliminate an access point currently available to the tenants that would permit access from NW 192nd Street and through a large single family neighborhood.

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.

III. RECOMMENDATION

Based on the Findings, the Planning Commission recommends approval of application #201518; a rezone from R-12 to R-18 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 vehicular access to NW 192nd Street except for maintenance or emergency vehicles.
3. Prohibit access easements across the site to serve other property owners.
4. Require a 10-foot wide, Type I landscape buffer along the western edge of the property.

City of Shoreline Planning Commission



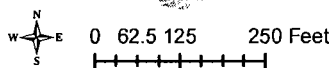
Chairperson

Date: 29 AUG 2006



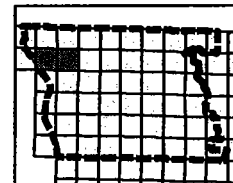
SHORELINE

Geographic Information System
City of Shoreline Zoning



Legend

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|--|-------------------------------------|--|---|--|------------------------|
| | 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 | | |
| | NCBD - 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.

Created on 4-17-06

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EXHIBIT C
Ordinance No. 438

**CONCOMITANT REZONE AGREEMENT AND
COVENANT RUNNING WITH THE LAND**

Contract Zone No. R-CZ-06-02

This Concomitant Rezone Agreement and Covenant (hereinafter "Covenant") dated September 26, 2006, by and between the City of Shoreline, Washington, a municipal corporation (hereinafter "City"), and Richard & Pamela Burt (hereinafter "Owners").

RECITALS

A. Owners are the owners of real property located in King County legally described as:

E 185 FT OF N1/2 OF N1/2 OF SE1/4 OF NE1/4 OF SE1/4 LESS N 100
FT TH OF LESS CO RD.

Parcel No. 0226039205

(Hereafter described as "Property").

B. The City of Shoreline and Owners have applied to rezone the Property from its current zoning to Residential 18 units per acre (R-18), consistent with the Comprehensive Plan adopted by the City pursuant to the Growth Management Act (RCW Ch.36.70A).

C. The City has conditionally approved the rezone application provided the Property is developed under conditions and limitations, which shall be considered as a qualification to the City's zoning designation.

NOW THEREFORE, the City and Owners agree as follows:

- 1. Title.** Owners are the sole and exclusive owners of the Property described above.
- 2. Covenant.** Owners covenant and agree, on behalf of themselves and their successors and assigns, that during the entire period that the Property is zoned R-CZ-06-02, the Property will be developed only in accordance with this Covenant and subject to the conditions provided herein. The Owners specifically agree that this Covenant touches, concerns, enhances, benefits and runs with the Property.
- 3. Uses.** The Owners or their successors may construct a residential development on the Property subject to the following conditions:

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Condition # 1: No more than four units may be built on the property.

Condition # 2: Vehicular access to the property from NW 192nd Street is prohibited except for maintenance or emergency vehicles.

Condition #3: Access easements across the site to serve other property owners are prohibited.

Condition #4: Owners shall plant and maintain a 10-foot wide Type I landscape buffer along the western edge of the property.

4. Binding Effect. This Covenant shall remain in full force and effect, and be binding upon the Owners and their successors and assigns until 1) amended, modified or terminated by an ordinance adopted by the Shoreline City Council, or 2) Owners of all interest in the property file a written declaration with the City that they wish the Property to revert to the R-12 land use designations existing immediately prior to passage of Ordinance No. 438 or such other default zoning as may have been adopted by the City Council for the Property subsequent to this agreement. Obligations contained herein shall be enforceable against all such successors and assigns.



5. Filing. A copy of this Covenant will be filed for record with the King County Records and Elections Division.

6. Remedies. Violations of this Covenant shall be enforced by the City according to enforcement procedures applicable to zoning code violations.

7. Attorney Fees. In the event that legal action is commenced to enforce or interpret any revision of this Covenant, including any appeal thereof, the substantially prevailing party shall be entitled to its costs including reasonable attorney's fees.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the date first above written.

OWNER(s)

CITY OF SHORELINE


Robert L. Olander, City Manager

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APPROVED AS TO FORM:

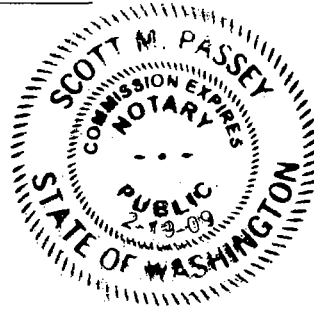
Ian Sievers
Ian Sievers, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Richard Burt,
representing N/A appeared before
me, and said person acknowledged that he signed this instrument and acknowledged it to
be the free and voluntary act of such party for the uses and purposes mentioned in this
instrument.

DATED: September 26, 2006

By: *Scott M. Passey*
Notary Public in and for the State of Washington
residing at Snohomish County.
My commission expires 2-19-09.



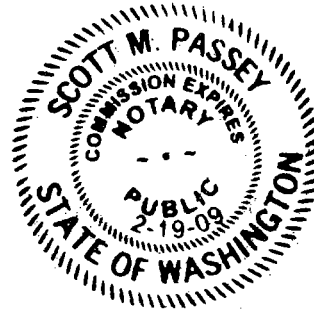
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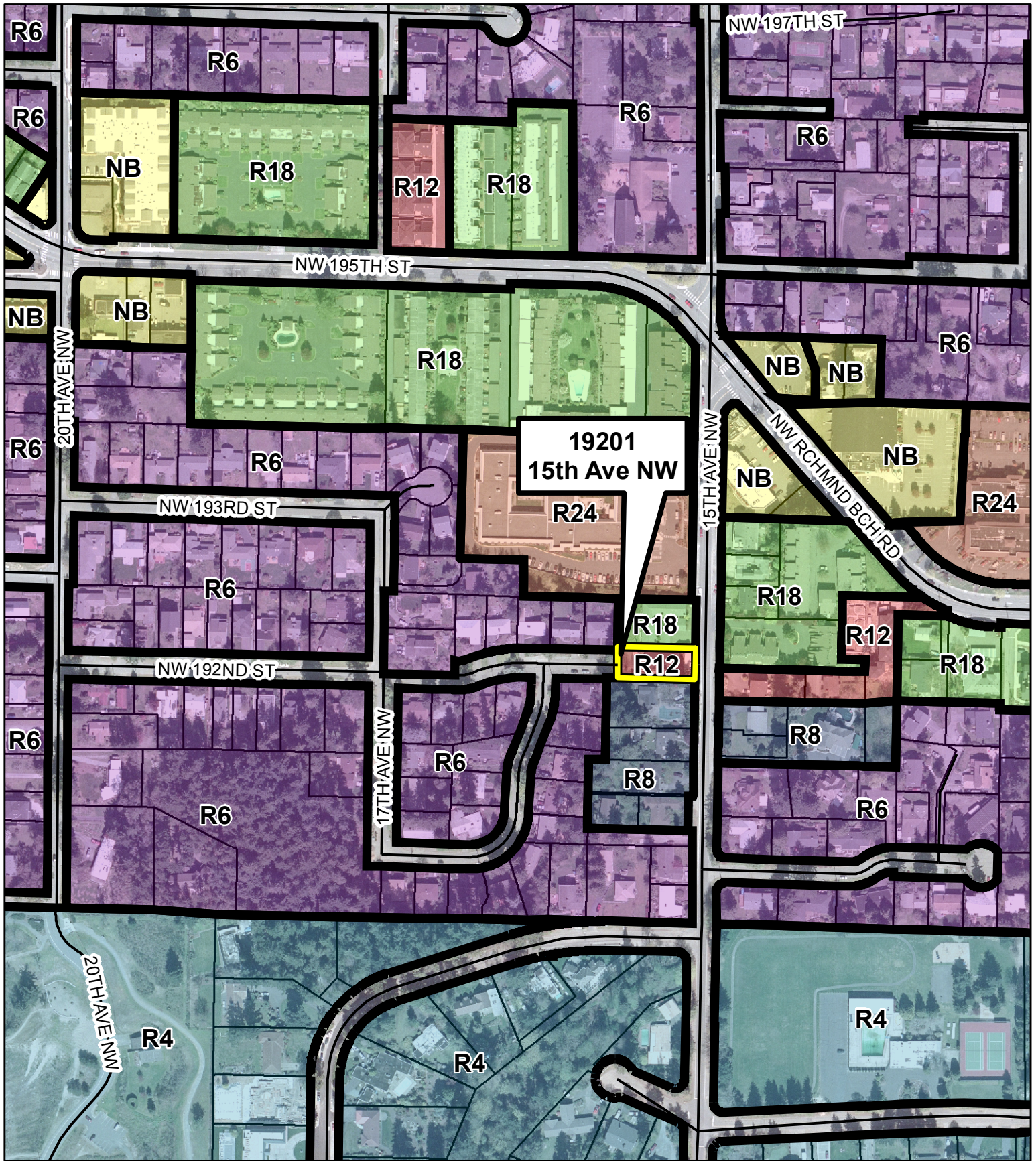
STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Pamela Burt,
representing N/A appeared before
me, and said person acknowledged that she signed this instrument and acknowledged it to
be the free and voluntary act of such party for the uses and purposes mentioned in this
instrument.

DATED: September 26, 2006

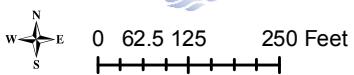
By: Scott M. Passey
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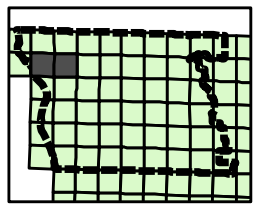
Geographic Information System
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-  Zone District Boundary
-  Parcel Line
-  Street



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