

**ORDINANCE NO. 838****AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON APPROVING THE REZONE APPLICATION TO AMEND THE CITY'S OFFICIAL ZONING MAP FROM R-48 TO MB FOR A PARCEL OF LAND LOCATED AT THE INTERSECTION OF N 145<sup>th</sup> STREET AND STONE AVENUE N, TAX PARCEL NO. 1826049092.**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70C RCW; and

WHEREAS, the applicants, via Application No. PLN 18-0019, seeks a site-specific rezone of a parcel of land located at the intersection of N 145<sup>th</sup> Street and Stone Ave N, identified by a Tax Parcel No. 1826049092, and addressed as 14507 and 14511 Stone Avenue N.; and

WHEREAS, the requested site-specific rezone would amend the City's Official Zoning Map for this parcel from the current zoning Residential 48 units per acre (R-48) to Mixed Business (MB); and

WHEREAS, the site-specific rezone implements the Comprehensive Plan land use designation for the parcels of Mixed Use 1; and

WHEREAS, the environmental impacts of the site-specific zone resulted in the issuance of a Determination of Non-Significance (DNS) on July 19, 2018; and

WHEREAS, SMC 20.30.060 classifies a site-specific rezone as a Type C decision for which the City of Shoreline Hearing Examiner, after an open record public hearing, prepares findings and conclusions, and makes a recommendation to the City Council; and

WHEREAS, the City of Shoreline Hearing Examiner held a properly noticed open record public hearing on August 15, 2018; and

WHEREAS, on August 28, 2018, the City of Shoreline Hearing Examiner issued "Findings, Conclusions and Recommendation," finding that the site-specific rezone satisfied the criteria set forth in SMC 20.30.320; and

WHEREAS, the City of Shoreline Hearing Examiner recommended approval of the site-specific rezone; and

WHEREAS, pursuant to SMC 20.30.060, the City Council has final decision making authority and this decision is to be made at a public meeting; and

WHEREAS, the City Council considered the Hearing Examiner's recommendation at its October 1, 2018 regular meeting; and

WHEREAS, the City Council concurs with the August 28, 2018 “Findings, Conclusions, and Recommendation” of the City of Shoreline Hearing Examiner, determining that the site-specific rezone satisfies the criteria set forth in SMC 20.30.320 and should be approved.

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

**Section 1. Hearing Examiner’s Recommendation.** The City of Shoreline Hearing Examiner’s August 28, 2018 Findings, Conclusion and Recommendation attached as Exhibit A, is hereby adopted.

**Section 2. Amendment.** The City’s Official Zoning Map shall be amended to change the zoning designation for the parcels located at the intersection of N 145<sup>th</sup> Street and Stone Avenue N, addressed as 14507 Stone Avenue N and 14511 Stone Avenue N, and identified by Tax Parcel No. 1826049092, from Residential 48 units per acre (R-48) to Mixed Business (MB), as depicted on Exhibit B.

**Section 3. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

**Section 4. Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

**Section 5. Publication and Effective Date.** A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

**PASSED BY THE CITY COUNCIL ON THE 15<sup>th</sup> DAY OF OCTOBER, 2018.**

  
\_\_\_\_\_  
Mayor Will Hall

ATTEST:

  
\_\_\_\_\_  
Jessica Simulcik Smith  
City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Margaret King  
City Attorney

Date of Publication: October 18, 2018  
Effective Date: October 23, 2018

**CITY OF SHORELINE HEARING EXAMINER**

**RECOMMENDATION ON REQUEST FOR  
SITE SPECIFIC REZONE**

**HE-18-05/PLN 18-0019 (Wright Rezone)**

**August 28, 2018**

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**1. FINDINGS OF FACT**

**1.1 Background.** This is a request to rezone two adjacent properties from R-48 (Residential, 48 units per acre) to Mixed Business.

**1.2 Applicant, Property Owners, and Site Location.**

Applicant: Robert Wright, The Foundation Group, 2621 Eastlake Avenue East, Seattle WA 98102

Property Owners: 14507-H, LLC, 6525 Crown Blvd., #20428, San Jose, CA 95160-0428

Site Address: Parcel A: 14511 Stone Avenue North  
Parcel B: 14507 Stone Avenue North

Tax Parcel No.: 182604-9092 (the site was assigned a single parcel number, but has two legal descriptions).<sup>1</sup>

**1.3 Hearing.** A public hearing was held on August 15, 2018. The Planning Department, through Ms. Redinger, summarized the proposal, identified the City's rezone criteria, explained how the proposal met the criteria, and concluded with a recommendation of approval. The Applicant, through Mr. Wright, expressed concurrence with the Department's presentation. In response to a question from the public during the Department's presentation, Mr. Wright emphasized that no specific project was a part of the rezone proposal, although the site would likely be redeveloped in future.

Only one citizen indicated a wish to speak. Ms. Judy provided only her first name and did not wish to testify under oath. She had hoped for a back and forth or "Q&A" forum to address her questions. The Examiner stated questions could be raised, but this was not a "Q&A" forum. However, once public testimony concluded, the Planning Department and Applicant could address concerns raised. Ms. Judy elected not to provide testimony. The Planning Department indicated staff would also be available to answer questions after the hearing.

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<sup>1</sup> Exhibit 1 (Staff Report), pgs. 1-2. The legal descriptions are in the Staff Report; *see also* Exhibit 1 (Staff Report), Att. 18, pg. 3 (updated survey reflecting the boundaries of the two parcels).

The Examiner asked if there was anyone else who wished to provide comment. No one present indicated a wish to comment. The hearing was adjourned.

**1.4 Exhibits.** The Examiner admitted these exhibits:

- Exhibit 1 Staff Report, with Attachments 1-18
- Exhibit 2 Public Hearing Affidavit
- Exhibit 3 Planning Department Power Point Presentation

**1.5 Site Description.** The 1.5 acre site is developed with the a 57 unit apartment complex, the Linden II Apartments. They consist of two 1964 apartment buildings and a centralized 1984 building, with a pool.<sup>2</sup>

**1.6 Critical Areas.** The steepest slopes along both parcels' frontages and on Parcel A exceed 25 percent.<sup>3</sup> There are no indications of rockslides, earthflows, mudflows, landslides, or other slope failure on the site or surrounding properties.<sup>4</sup> Except steep slopes, there are no mapped critical areas (wetlands, streams, or fish & wildlife habitat) at the site or on neighboring properties. The site does not have ground water seepage or springs near the ground surface. There is no standing or running water on the site or on adjacent properties during the year.

**1.7 Access.** Parcel A is accessed from the south via N 145th Street (State Highway 523), a Collector Arterial. Parcel B is accessed from the east via Stone Avenue NE, a Local Secondary street. Just over 200 feet to the west is Aurora Avenue N (State Highway 99).

**1.8 Site and Surrounding Property Zoning and Comprehensive Plan Designations.** The site is in the Parkwood Neighborhood's southwest corner. The Westminster Triangle Neighborhood is to the west, across Aurora Avenue N. The City of Seattle's municipal boundary is to the south, at N 145th Street's center line. The zoning is R-48.<sup>5</sup> "The purpose of high density residential, R-18, R-24, R-36 and R-48 zones, is to provide for a mix of predominantly apartment and townhouse dwelling units and other compatible uses."<sup>6</sup> However, the Comprehensive Plan designation is Mixed-Use 1.<sup>7</sup>

The Mixed-Use 1 (MU1) designation encourages the development of walkable places with architectural interest that integrate a wide variety of retail, office, and service uses, along with form-based maximum density residential uses. Transition to adjacent single-family neighborhoods may be accomplished through appropriate design solutions. Limited manufacturing uses may be permitted under certain conditions.<sup>8</sup>

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<sup>2</sup> See Exhibit 1 (Staff Report), Att. 1 for aerial view and site plan.

<sup>3</sup> Exhibit 1 (Staff Report), Att. 8 (Application, attached Critical Areas Worksheets).

<sup>4</sup> See e.g., Exhibit 1 (Staff Report), Att. 5 (GIS topographic map).

<sup>5</sup> Exhibit 1 (Staff Report), Att. 3.

<sup>6</sup> SMC 20.40.030(C).

<sup>7</sup> Exhibit 1 (Staff Report), Att. 4.

<sup>8</sup> Comprehensive Plan Land Use Policy 9 (LU-9).

The requested zoning is consistent. "The purpose of the mixed business zone (MB) is to encourage the development of vertical and/or horizontal mixed-use buildings or developments along the Aurora Avenue and Ballinger Way corridors."<sup>9</sup>

The surrounding area within the City has a mix of zoning, including two single family zones, R-6 and R-8, along with the Mixed Business commercial zone. Within Seattle boundaries, property is zoned Low Rise Multifamily 2 and 3 (LR2, LR3), and includes a mix of dwelling units, including single-family; a Walgreens drug store on the property immediately adjacent to the west; a restaurant across N 145th Street in Seattle; and other businesses and multifamily housing along Aurora Avenue N.

**1.9 Public Notice.** A pre-application meeting was held on December 5, 2017, which was followed by a neighborhood meeting on June 2, 2018.<sup>10</sup> Application notice was posted on site, mailed to all residents within 500 feet and the SEPA notification list, with notice also published in the Seattle Times, and posted on the City's website.<sup>11</sup> Public hearing notice was posted on site and on the City's website, mailed to residents, and published in the Seattle Times.<sup>12</sup> City notice requirements were complied with.

**1.10 Agency Comment.** The proposal was circulated among City departments and outside agencies for review and comment. When the site is redeveloped, drainage, frontage, and sidewalk improvements will be required. Impact fee requirements would apply (*i.e.*, Transportation, Parks, and Fire).

**1.11 SEPA.** The City of Shoreline is the SEPA Lead Agency. The City issued a Determination of Nonsignificance,<sup>13</sup> which was mailed to the notification list, including State Departments of Commerce and Ecology, neighboring jurisdictions, local organizations, and tribes. The City received one comment from the King County Historic Preservation Program.<sup>14</sup> A Historical Report addressed the comment.<sup>15</sup>

**1.12 Water/Sewer Availability.** The Applicant submitted a Certificate of Water Availability from North City Water District. During the pre-application meeting, Ronald Wastewater District provided information on sanitary sewer requirements and general facilities charges, and City staff provided information on regulatory requirements, including those addressing drainage and frontage improvements.

**1.13 Rezone Criteria.** In summary, the City's rezone criteria require an evaluation of Comprehensive Plan consistency, avoidance of adverse effects and material detriment to surrounding uses, and a showing that the rezone has merit and value for the community.<sup>16</sup>

<sup>9</sup> SMC 20.40.040(C).

<sup>10</sup> Exhibit 1 (Staff Report), Att. 6 (Neighborhood Meeting Invite) and Att. 7 (Neighborhood Meeting Summary). The summary was mailed to attendees on June 26, 2018.

<sup>11</sup> Exhibit 1 (Staff Report), Att. 10 and Att. 11; SMC 20.30.120 and 180.

<sup>12</sup> Exhibit 1 (Staff Report), Att. 14, 15, and 16; Exhibit 2 (Affidavit of Publication for the hearing).

<sup>13</sup> Exhibit 1 (Staff Report), Att. 13.

<sup>14</sup> Exhibit 1 (Staff Report), Att. 12.

<sup>15</sup> Exhibit 1 (Staff Report), Att. 18.

<sup>16</sup> See SMC 20.30.320.

**1.13.1 Comprehensive Plan Consistency.** The Comprehensive Plan designates the area Mixed-Use 1. The site is near the intersection of Aurora and 145th. Aurora Avenue N contains Bus Rapid Transit lanes for the King County Metro E Line. N 145th Street will host the Lynnwood Link light rail station. Overall, this area is slated for intensification of mixed commercial and residential uses. The Mixed Business zoning designation would facilitate this use mix, consistent with these policies.

- Goal LU II: Establish land use patterns that promote walking, biking and using transit to access goods, services, education, employment, recreation.
- Goal CD I: Promote community development and redevelopment that is aesthetically pleasing, functional, and consistent with the City's vision.
- Goal H I: Provide sufficient development capacity to accommodate the 20 year growth forecast and promote other goals, such as creating demand for transit and local businesses through increased residential density along arterials; and improved infrastructure, like sidewalks and stormwater treatment, through redevelopment.
- H2: Provide incentives to encourage residential development in commercial zones, especially those within proximity to transit, to support local businesses.
- H3: Encourage infill development on vacant or underutilized sites.
- NE1. Promote infill and concurrent infrastructure improvements in areas that are already developed in order to preserve rural areas, open spaces, ecological functions, and agricultural lands in the region.

Based on these goals and policies, the Mixed Business zoning is consistent with the Mixed-Use 1 Plan designation, and satisfies SMC 20.30.320(B)(1).

**1.13.2 No Adverse Effect to Public Health, Safety or General Welfare.** The City is designing corridor improvements for N 145th Street to accommodate increased traffic and multimodal access for the future light rail station. The segment between Interstate 5 and Aurora Avenue N is further divided into three sections. Based on grant funding cycles and existing capital funding commitments within the city, improvements to the segment closest to Aurora (where the site is) are unlikely to be funded for at least the next decade. Site redevelopment, which would trigger frontage improvements, is potentially a way to realize updated sidewalk standards before the City can devote capital project resources to this area. Redevelopment would also trigger updated stormwater standards and more efficient building design (through adherence to updated Energy Code requirements) that would also contribute to improved public health, safety, and general welfare.

Once redeveloped, the site's aesthetics will improve, to better appeal to customers and tenants, and the surrounding sidewalks and streets will be made wider and safer. These public health, safety and general welfare objectives follow Plan objectives.

- Goal LU II: Establish land use patterns that promote walking biking and using transit to access goods, services, education, employment, recreation.
- LU9: The Mixed-Use 1 (MU1) designation encourages the development of walkable places with architectural interest that integrate a wide variety of retail, office, and service uses, along with form-based maximum density residential uses. Transition to adjacent single-family neighborhoods may be accomplished through appropriate design solutions. Limited manufacturing uses may be permitted under certain conditions.
- Goal H1: Provide sufficient development capacity to accommodate the 20 year growth forecast and promote other goals, such as creating demand for transit and local businesses through increased residential density along arterials; and improved infrastructure, like sidewalks and stormwater treatment, through redevelopment.
- H2: Provide incentives to encourage residential development in commercial zones, especially those within proximity to transit, to support local businesses.
- H3: Encourage infill development on vacant or underutilized sites.
- Goal TV1: Encourage alternative modes of transportation to reduce the number of automobiles on the road, promote a healthy city, and reduce carbon emissions.
- T33: Strengthen Aurora Avenue N as a high usage transit corridor that encourages cross-country, seamless service.
- T49: Expand the city's pedestrian network. Prioritize projects shown on the Pedestrian System Plan included in the TMP using the following criteria:
  - o Ability to be combined with other capital projects or leverage other funding;
  - o Proximity to a school or park;
  - o Located on an arterial;
  - o Located in an activity center, such as Town Center, North City, Ballinger, or connects to Aurora Avenue N;
  - o Connects to an existing walkway or the Interurban Trail;
  - o Connects to transit; and/or
  - o Links major destinations such as neighborhood businesses, high density housing, schools, and recreation facilities.

The rezone is consistent with SMC 20.30.320(B)(2).

**1.13.3 Rezone Warranted in Order to Achieve Comprehensive Plan Consistency.** The Comprehensive Plan land use designation most appropriate for the current R-48 zoning is High Density Residential. The most common implementing zoning for Mixed-Use 1 is Mixed Business. The Applicant stated that with R-48 zoning, redevelopment is limited to 72 units. The City's vision in this locale under the Mixed-Use 1 Plan designation is a combination of high density residential and commercial uses. Mixed Business zoning is consistent and satisfies SMC 20.30.320(B)(3).

**1.13.4 No Material Detriment to Uses or Property in the Immediate Vicinity.** Site redevelopment would result in improved architecture, which would likely include an updated design aesthetic besides complying with Building Code regulations requiring increased energy efficiency and safety measures. The Property is at Shoreline's "gateway" for people coming from the south, whether to the 145th Street light rail station or heading north on Aurora Avenue. The City invested millions of dollars in revitalizing the Aurora Avenue Corridor and expects to see millions of dollars of improvements to the 145th Street Corridor from Shoreline, Sound Transit, WSDOT, and other regional entities. New housing development that includes frontage improvements would complement past and proposed investments, and would not be materially detrimental to surrounding properties. The requested rezone is consistent with Plan objectives for this area.

- Goal NE V. Protect clean air and the climate for present and future generations through reduction of greenhouse gas emissions, and promotion of efficient and effective solutions for transportation, clean industries, and development.
- NE1. Promote infill and concurrent infrastructure improvements in areas that are already developed in order to preserve rural areas, open spaces, ecological functions, and agricultural lands in the region.

There is no material detriment; the rezone follows SMC 20.30.320(B)(4).

**1.13.5 Rezone Merit and Value for the Community.** When the site is redeveloped, the project must comply with new design, landscaping, streetscape, and stormwater requirements. This will improve property aesthetics, economic attractiveness, and better serve the environment. This follows the Comprehensive Plan.

- ED9: Promote land use and urban design that allows for smart growth and dense nodes of transit-supportive commercial activity to promote a self sustaining local economy.
- ED12: Revitalize commercial business districts, and encourage high density mixed-use in these areas.
- ED21: Support public/private partnerships to facilitate or fund infrastructure improvements that will result in increased economic opportunity.

- ED27: Develop a vision and strategies for creating dense mixed-use nodes anchored by Aurora's retail centers, including how to complement, support, and connect them with mid-rise residential, office, and destination retail buildings.

To address impacts, new residential development will require the payment of Transportation, Park, and Fire Impact Fees, which fund system-wide improvements to accommodate growth within the community. Future development will install full frontage improvements including sidewalk, curb, gutter, and landscape/amenity zone adjacent to the sidewalk. Also, new residential development will pay impact fees to support the system-wide improvements to support growth. The proposal has community merit and value.

## **2. CONCLUSIONS OF LAW**

**2.1** The City classifies site specific rezones as Type C decisions,<sup>17</sup> which require the Hearing Examiner to issue a recommendation after holding an open record public hearing. The City Council makes the final decision.

**2.2** The City requires the Examiner to consider these criteria:

The City may approve or approve with modifications an application for a rezone of property if:

1. The rezone is consistent with the Comprehensive Plan; and
2. The rezone will not adversely affect the public health, safety or general welfare; and
3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan; and
4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone; and
5. The rezone has merit and value for the community.<sup>18</sup>

**2.3** The City's rezone criteria are consistent with the general case law rules governing rezones, which provide no presumption of validity and require demonstration of a substantial relationship to the public health, safety, morals, and general welfare.<sup>19</sup> As the rezone is consistent with the Comprehensive Plan, changed circumstances need not be demonstrated.<sup>20</sup>

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<sup>17</sup> SMC 20.30.060.

<sup>18</sup> SMC 20.30.320(B).

<sup>19</sup> *Phoenix Development Inc. v. City of Woodinville*, 171 Wn. 2d 820, 834, 256 P.3d 1150 (2011).

<sup>20</sup> *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846, 899 P.2d 1290 (1995).

2.4 As addressed in the findings above, the proposal is consistent with the City's rezone criteria. The Comprehensive Plan plans for mixed commercial and higher densities at this location, which the requested zone designation provides for. The property has no constraints (drainage, steep slopes, critical areas), which would make more intensive development problematic or result in adverse effect to the public health, safety or general welfare. Given the objective to increase mixed uses, and that the Plan contemplates same at this location, the rezone is warranted for achieving Plan consistency.

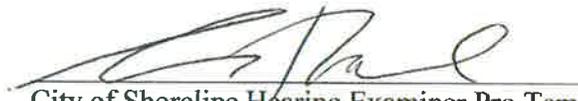
2.5 The City's regulations require that landscaping, stormwater, and transportation impacts be addressed, which protect against material detriment and adverse effects to surrounding uses. The rezone allows for well-designed future development mitigated per code requirements. The proposal has "merit and value for the community," and bears a substantial relationship to the public health, safety, morals, and general welfare.

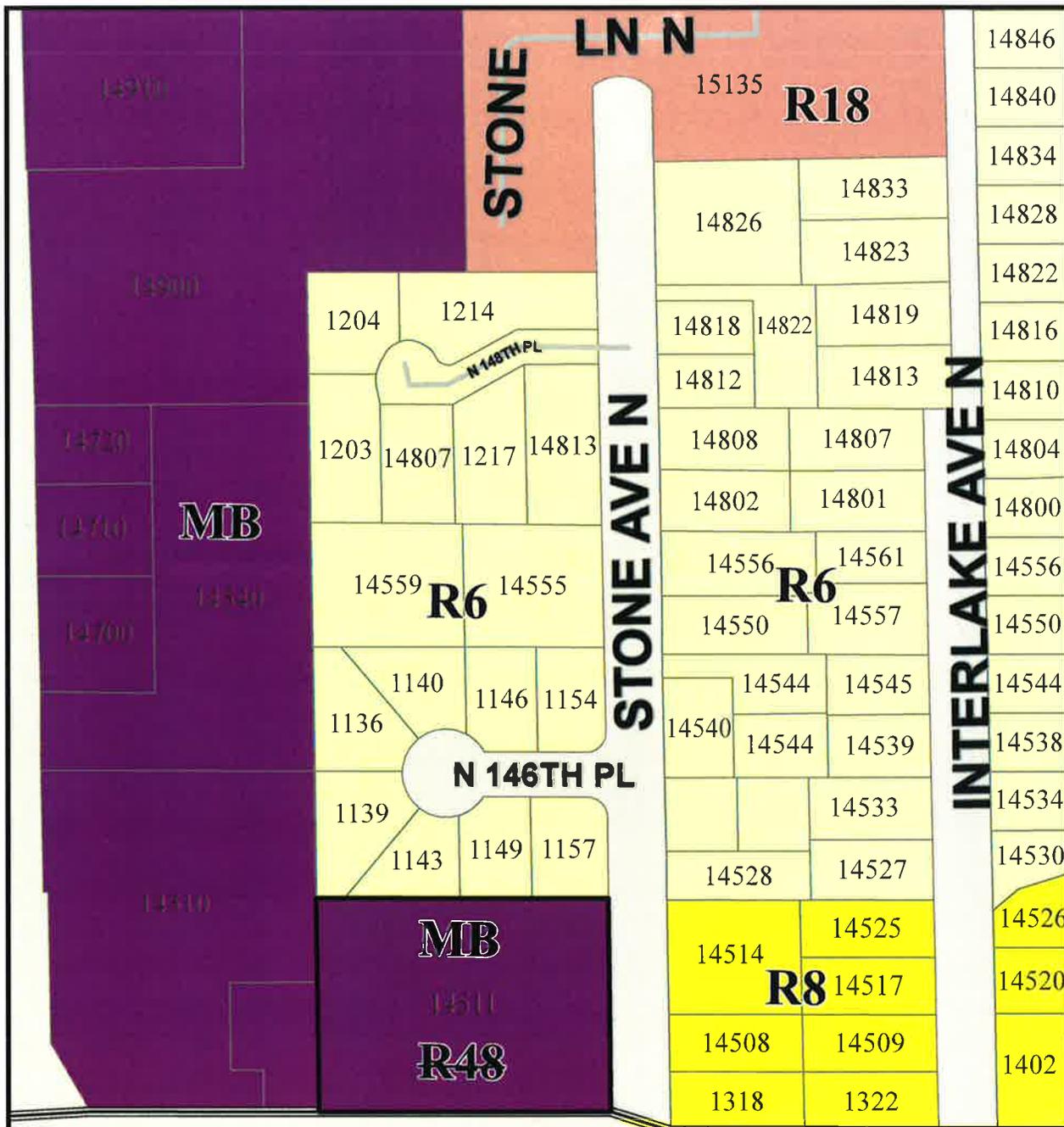
2.6 While the Council makes the final decision, and may weigh the facts differently or place greater emphasis on other Plan policies, based on the findings above, the Examiner concurs with the Planning Department's analysis and recommends rezone approval.

### **RECOMMENDATION**

The Hearings Examiner, pursuant to the above Findings of Fact and Conclusions of Law, recommends approval of the request to rezone the two properties at 14511 Stone Avenue North and 14507 Stone Avenue North from R-48 to Mixed Business.

THIS RECOMMENDATION is entered this 28th day of August, 2018.

  
City of Shoreline Hearing Examiner Pro Tem  
Susan Elizabeth Drummond



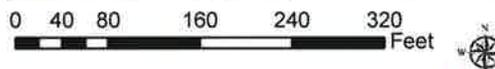
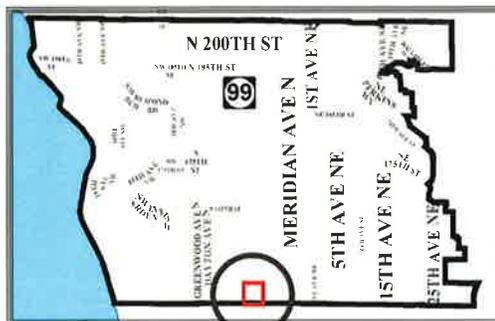
**14511 Stone Ave N Rezone  
 R-48 to MB**

**Zoning Legend**

- |                                            |                                  |
|--------------------------------------------|----------------------------------|
| TC-1 to TC-4; Town Center                  | CZ; Contract Zone                |
| MUR-70; Mixed Use Residential (70' height) | R-48; Residential, 48 units/acre |
| MUR-45; Mixed Use Residential (45' height) | R-24; Residential, 24 units/acre |
| MUR-35; Mixed Use Residential (35' height) | R-18; Residential, 18 units/acre |
| MB; Mixed Business                         | R-12; Residential, 12 units/acre |
| CB; Community Business                     | R-8; Residential, 8 units/acre   |
| NB; Neighborhood Business                  | R-6; Residential, 6 units/acre   |
| PA 3; Planned Area 3                       | R-4; Residential, 4 units/acre   |
| C; Campus                                  |                                  |

**Feature Legend**

- |                 |                    |
|-----------------|--------------------|
| - Parcel Change | - Unclassified ROW |
| - City Boundary | - Parcel Line      |



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

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