To: Honorable City Council
By: David Kuhl, Development Services Director
Subject: First Reading and Adoption of Ordinance 651: Zoning Map Amendment
Residential R-1 to Office, ZMA17001/SEP17001; A portion of property located in the former 148th Avenue Right-of-Way

Expenditure Required | Amount Budgeted/Approved | Additional Amount Required
----------------------|--------------------------|------------------------
$0                   |                          | $0                     

ISSUE: Shall the City Council pass first reading of Ordinance 651 approving the Hearing Examiner’s recommendation regarding a proposed zoning map amendment to change the property from Residential R-1 to Office?

RECOMMENDATION: To have first reading of Ordinance 651 approving the zoning map amendment to change the property’s designation from R-1 to Office and place it on the next available agenda for second reading and adoption.

BACKGROUND/DISCUSSION: The City Council added an item to the 2017 docket to amend the Comprehensive Plan from Woodland Residential to Office due to a private application proposed by Sierra Construction. In addition, the proposal included changing the zoning from R-1 to Office. The proposed rezone will make the property’s zoning consistent with the Comprehensive Plan Future Land Use Map, as required by State Law.

Sierra Construction requested the City vacate the pertinent right-of-way. Council adopted Ordinance No. 636, completing vacation of the relevant portion of ROW on July 11th, 2017.

The Planning Commission held a Public Hearing on the proposed Comp Plan amendment on July 5, 2017. The Commission voted to recommend approval of Ordinance 646 by a 5-0 vote.

The City Council approved first reading of Ordinance 646 at the meeting held on July 18, 2017 by a 6-1 vote.

The City Council approved second reading of Ordinance 646 at the meeting held on August 1, 2017 (Mayor Talmas voted no).

On October 25, 2017, the Hearing Examiner found the rezone is consistent with all applicable rezone criteria and approved the rezone under the site-specific criteria found in WMC 21.80.090(1) (2) and (3).

ALTERNATIVES:

1. The Council may approve the Hearing Examiner Recommendation as presented.
2. The Council may remand the issue for additional clarification or conditions to the Hearing Examiner.
3. The Council may deny the Zoning Reclassification.
RECOMMENDED MOTION:

I MOVE TO PASS FIRST READING AND ADOPT ORDINANCE 651, APPROVING A ZONE RECLASSIFICATION AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY REZONING FROM R-1 RESIDENTIAL TO OFFICE PROPERTY LOCATED ON THE NORTH SIDE OF THE INTERSECTION BETWEEN NE WOODINVILLE-DUVALL ROAD AND NE WOODINVILLE WAY, OWNED BY COLLINS INVESTMENTS LLC/SIERRA CONSTRUCTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

Attachment 1: Ordinance 651
Attachment 2: Hearing Examiner Decision dated October 25, 2017 with exhibits
ORDINANCE NO. 651

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, APPROVING A ZONE RECLASSIFICATION AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY REZONING FROM R-1 RESIDENTIAL TO OFFICE PROPERTY LOCATED ON THE NORTH SIDE OF THE INTERSECTION BETWEEN NE WOODINVILLE-DUVALL ROAD AND NE WOODINVILLE WAY, OWNED BY COLLINS INVESTMENTS LLC/SIERRA CONSTRUCTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, on July 11, 2017, the Woodinville City Council approved Ordinance No. 636, vacating a portion of unused City right of way identified therein, subject to conditions; and

WHEREAS, a portion of said vacated right of way accreted to and therefore assumed the R-1 zoning of tax parcel 324450-0079, which is currently zoned R-1; and

WHEREAS, on August 1, 2017, the Woodinville City Council approved Ordinance No. 646, changing the Comprehensive Plan Land Use Map designation for such vacated portion accreting to tax parcel 324450-0079 from Woodland Residential to Office; and

WHEREAS, the owner of such property, Collins Investments LLC/Sierra Construction, has applied for a site-specific rezone of such property from R-1 Residential to Office, in order to conform with the Comprehensive Plan Land Use Map designation of such property as amended by Ordinance No. 646; and

WHEREAS, the City conducted required environmental review under the State Environmental Policy Act; and

WHEREAS, the Woodinville Hearing Examiner conducted an open record hearing on the rezone application on October 10, 2017, and in a decision issued on October 25, 2017, recommended that the City Council approve the requested rezone as necessary to ensure legally mandated consistency between the Comprehensive Plan Land Use Map and the City zoning map; and

WHEREAS, the City Council concurs with the Hearing Examiner’s recommendation;

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

Section 1. Findings. The City Council hereby adopts and incorporates herein by reference the findings set forth in the Hearing Examiner’s October 25, 2017 Findings of Fact, Conclusions of Law and Recommendation with respect to rezone application ZMA17001, attached hereto as Attachment 1 and incorporated herein by this reference as if set forth in full; the findings set forth in Ordinance No. 636; and the findings set forth in Ordinance No. 646.
Section 2. The City’s official zoning map is hereby amended to rezone that portion of the right of way vacated pursuant to Ordinance No. 636 which accreted to tax parcel 324450-0079 from R-1 Residential to Office, as depicted on Attachment 2, incorporated herein by this reference as if set forth in full.

Section 3. The Development Services Director is hereby authorized and directed to make the necessary changes to the City’s zoning map as set forth in Section 2 of this Ordinance.

Section 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, or phrase of this Ordinance.

Section 5. Effective date. This Ordinance concerning powers vested solely in the Council, it is not subject to referendum, and shall become effective five (5) days after its passage and publication as required by law. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date by publication of the ordinance title.

ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE
THIS ______ DAY OF ________________________, 2017.

__________________________________________
Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:

__________________________________________
Jennifer Kuhn, City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

__________________________________________
Jeffrey Ganson, City Attorney

PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 651
BEFORE THE HEARING EXAMINER FOR THE CITY OF WOODINVILLE

Phil Olbrechts, Hearing Examiner

RE: Sierra Office Rezone
Rezone
ZMA17001

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION.

INTRODUCTION

Sierra Construction has requested a rezone of 4,955.45 square feet from R1 to Office located on the north side of the “T” intersection between NE Woodinville Duvall Rd and NE Woodinville Way. The rezone is necessary so that the Applicant can use the rezone area to access a proposed commercial development located on adjoining property to the west. Approval of the rezone will enable the Applicant to line up its commercial access with the “T” intersection, as opposed to off-setting the access to the west at a less safe and efficient location. As outlined in the Conclusions of Law of this recommendation, the proposal is consistent with all applicable rezone criteria. Further, the City Council amended its Comprehensive Plan Future Land Use Map last July to designate the rezone property Office. The only implementing zoning map classification for the Office comprehensive plan map designation is the Office zoning district. For all these reasons, approval of the rezone is highly recommended.

ORAL TESTIMONY

David Kuhl, City of Woodinville Director of Development Services, summarized the proposal. In response to examiner questions Mr. Kuhl noted that if the rezone were not approved the small vacated area would remain R1 and would be very difficult to develop because it’s located on steep slopes. The adjoining Office zoned property to the west could be developed with up to three homes and use that R1 vacated area for access. Mr. Kuhl also responded that the road system serving the rezone area is operating at passing Woodinville level of service standards and it’s not anticipated that the requested up-zone would lower existing level of service. Mr. Kuhl also confirmed that the Office zone is the only zone that implements the comprehensive plan Office map designation.

1 To avoid confusion, it must be clarified that the rezone area is on the same parcel as the “adjoining” property to the west. The rezone area was recently added to the parcel in which its currently located by a boundary line adjustment.
Roger Collins, Applicant, noted that the 5,000 square feet of property comprising the requested rezone area has only been R1 for about a month because of a street vacation. Prior to the street vacation it had no zoning. One of the reasons Mr. Collins purchased the adjoining property to the east, which is zoned R1, was to control the outcome of the vacation. The original plan was to have all the vacated area accrue to the Office zoned property to the west and take on that zoning. The City Attorney concluded that only the western half of the vacation area could take on the Office zoning of the parcel adjoining the vacated area to the west. Mr. Collins clarified that if the rezone were denied he could still build an office building on the western parcel, but the access would have to be shifted west away from the eastern half of the vacation area, thereby reducing the development footprint for the office building and off-setting the access intersection from the currently existing T intersection of NE Woodinville Way and Woodinville-Duvall Road. If the rezone were not allowed, the result would be the elimination of the access point at the T-intersection to a driveway access to the west, which is much less safe and convenient, albeit less expensive, than what is currently proposed.

EXHIBITS

All 11 exhibits listed in the Exhibit List presented by staff at the October 10, 2017 hearing were admitted into the record. The following exhibits were also admitted during the October 10, 2017 hearing:

13. Staff power point presentation.
14. Staff power point presentation.

FINDINGS OF FACT

Procedural:

1. Applicant. The applicant is Roger Collins, Sierra Construction 19900 144th Avenue NE Woodinville WA 98072.

2. Hearing. The hearing examiner conducted a hearing on the application at Woodinville City Hall in the Council Chambers on October 10, 2017.

Substantive:

3. Site/Proposal Description. Sierra Construction has requested a rezone of 4,955.45 square feet from R1 to Office located on the north side of the “T” intersection between NE Woodinville Duvall Rd and NE Woodinville Way. The rezone is necessary so that the Applicant can use the rezone area to access a proposed commercial development located on adjoining property to the west. The Applicant intends to develop the adjoining property to the west for office use and the City Attorney has concluded that the rezone parcel cannot be used to access the
commercial development if it maintains its current R1 zoning. The zoning of the property results from the City Council’s vacation of the undeveloped right of way of 148th Avenue. That street vacation converted the rezone parcel from no zoning to the current Office zoning district. If the rezone is not approved, the Applicant will have to shift its commercial access west of the parcel. This would off-set the access from the “T” intersection, creating an unsafe and inefficient access point to the commercial development under consideration.

4. Characteristics of the Area. The proposed rezone is consistent with surrounding uses. The rezone parcel has already been subject to a lot line adjustment that has added the rezone area to the adjoining Office zoned parcel to the west. All surrounding parcels are currently vacant. The parcels to the north and east are zoned R1 and the property to the south is zoned Office and R6. The rezone parcel abuts the “T” intersection between NE Woodinville Duvall Rd and NE Woodinville Way to the south. An aerial photograph of the rezone area and a zoning map of the vicinity taken from the staff power point are pasted below:

5. Adverse Impacts. No significant adverse impacts are anticipated by the requested rezone. Staff testified that the up-zone will not have any significant adverse impact on the surrounding road network, as that network is currently operating within adopted level of service standards and the minor traffic attributable to the proposed rezone (by enabling a larger building footprint for the adjoining commercial property) will not lower that level of service. As testified by the Applicant, approval of the rezone will enable the access to proposed commercial development to line up with the adjoining “T” intersection, which would be safer and more efficient than off-setting the access to the west if the rezone is not approved. The size of the rezone area in comparison to the existing Office classified property to the west, which was testified as very roughly two to three acres in size, is highly marginal and will not create any material adverse impacts to the surrounding residentially zoned property. The overall impact of the proposal is positive. As noted in the staff report, approval of the rezone will facilitate the commercial development proposed by the Applicant, which will create up to 70 new jobs for the local economy.
CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. WMC 21.83.080 provides that the hearing examiner shall make recommendations to the City Council for site-specific rezone applications.

Substantive:

2. Zoning Designation. The property is currently zoned R1.

3. Review Criteria. WMC 21.80.090 governs the criteria for site-specific rezones. The applicable rezone criteria are quoted below in italics with accompanying Conclusions of Law that apply those criteria to the Findings of Fact made above. The proposed rezone is consistent with all applicable rezone criteria for the reasons identified below.

WMC 21.80.090(1): A zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the Comprehensive Plan and applicable functional plans at the time the application for such zone reclassification is submitted, and complies with the following criteria:

(1) There is a demonstrated need for additional zoning as the type proposed.

4. Proposal Consistent with Comprehensive Plan. As outlined in the staff report, the proposal is consistent with applicable comprehensive plan policies. First and foremost, the zoning classification is the only implementing zone for the Office comprehensive plan map designation adopted by the City Council on July 18, 2017 by Ordinance no 646. RCW 36.70A.120 requires the City to perform its activities in conformity with its comprehensive plan. For this reason, approval of the proposed rezone is essentially legally mandated. The rezone is also consistent with applicable comprehensive plan policies for the reasons identified in the staff report, namely that approval of the rezone will facilitate commercial development that will add up to 70 new jobs for the local economy, which furthers the employment and economic development objectives of Comprehensive Plan Policies LU-1.1. Given the marginal size of the rezone area and the lack of significant impacts to road infrastructure as determined in Finding of Fact No. 5, it can also be concluded that the proposal will be served by adequate public services as required by Comprehensive Plan Policy No. LU-2.4.

5. Demonstrated Need for Rezone. The rezone is necessary to allow for safe and efficient access to anticipated commercial development as outlined in Finding of Fact No. 5.
WMC 21.80.090(2): The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

6. Consistent and Compatible with Surrounding Uses. For the reasons identified in Finding of Fact No. 5, the proposed rezone is consistent and compatible with the uses and zoning of surrounding properties. The proposal will not create any significant adverse impacts to surrounding properties and will facilitate access to the street network that will be safer and more efficient than would otherwise have to be installed if the rezone were denied.

WMC 21.80.090(3): The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

7. Suitability. The rezone area is highly suited, both practically and physically, for the uses allowed in the proposed zone classification since approval of the rezone will enable a safer and more efficient commercial access than otherwise allowed while at the same time not generating any significant adverse impacts as outlined in Finding of Fact No. 5.

RECOMENDATION

It is recommended that the City Council approve the requested rezone. As outlined in this decision, the proposed rezone is necessary to ensure legally mandated consistency between the City’s comprehensive plan map and zoning map, will enable the construction of a safer and more efficient access point than without the rezone, will promote economic development and will not create any significant adverse impacts.

Dated this 25th day of October 2017.

[Signature]

Phil A. Olbrechts
City of Woodinville Hearing Examiner
LEGAL DESCRIPTION FOR AREA TO BE REZONED FROM R-1 TO OFFICE

PORTION TO BE CONVEYED FROM PARCEL 324450-0079 TO PARCEL 032605-9073

THAT PORTION OF THE W ESTERLY 30.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., AND THAT PORTION OF LAND CONVEYED UNDER KING COUNTY RECORDING NUMBER 4918214, DESCRIBED AS FOLLOWS:

COMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE 500'32"12"W ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER 104.65 FEET TO THE POINT OF BEGINNING; THENCE 544'27"48"E 42.43 FEET TO THE EAST LINE OF SAID WESTERLY 30.00 FEET; THENCE 500'32"12"W ALONG SAID EAST LINE 125.27 FEET; THENCE 531'35"21"W 58.16 FEET TO THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE N00°32'12"E 205.09 FEET TO THE POINT OF BEGINNING.

7-20-17
The exhibit has been prepared to assist in the interpretation of the accompanying legal description. If there is a conflict between the written legal description and this sketch, the legal description shall prevail.
BEFORE THE HEARING EXAMINER FOR THE CITY OF WOODINVILLE

Phil Olbrechts, Hearing Examiner

RE: Sierra Office Rezone

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CONCLUSIONS OF LAW

Procedural:

1. **Authority of Hearing Examiner.** WMC 21.83.080 provides that the hearing examiner shall make recommendations to the City Council for site-specific rezone applications.

Substantive:

2. **Zoning Designation.** The property is currently zoned R1.

3. **Review Criteria.** WMC 21.80.090 governs the criteria for site-specific rezones. The applicable rezone criteria are quoted below in italics with accompanying Conclusions of Law that apply those criteria to the Findings of Fact made above. The proposed rezone is consistent with all applicable rezone criteria for the reasons identified below.

   **WMC 21.80.090(1):** A zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the Comprehensive Plan and applicable functional plans at the time the application for such zone reclassification is submitted, and complies with the following criteria:

   (1) There is a demonstrated need for additional zoning as the type proposed.

4. **Proposal Consistent with Comprehensive Plan.** As outlined in the staff report, the proposal is consistent with applicable comprehensive plan policies. First and foremost, the zoning classification is the only implementing zone for the Office comprehensive plan map designation adopted by the City Council on July 18, 2017 by Ordinance no 646. RCW 36.70A.120 requires the City to perform its activities in conformity with its comprehensive plan. For this reason, approval of the proposed rezone is essentially legally mandated. The rezone is also consistent with applicable comprehensive plan policies for the reasons identified in the staff report, namely that approval of the rezone will facilitate commercial development that will add up to 70 new jobs for the local economy, which furthers the employment and economic development objectives of Comprehensive Plan Policies LU-1.1. Given the marginal size of the rezone area and the lack of significant impacts to road infrastructure as determined in Finding of Fact No. 5, it can also be concluded that the proposal will be served by adequate public services as required by Comprehensive Plan Policy No. LU-2.4.

5. **Demonstrated Need for Rezone.** The rezone is necessary to allow for safe and efficient access to anticipated commercial development as outlined in Finding of Fact No. 5.
**WMC 21.80.090(2):** The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

6. **Consistent and Compatible with Surrounding Uses.** For the reasons identified in Finding of Fact No. 5, the proposed rezone is consistent and compatible with the uses and zoning of surrounding properties. The proposal will not create any significant adverse impacts to surrounding properties and will facilitate access to the street network that will be safer and more efficient than would otherwise have to be installed if the rezone were denied.

**WMC 21.80.090(3):** The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

7. **Suitability.** The rezone area is highly suited, both practically and physically, for the uses allowed in the proposed zone classification since approval of the rezone will enable a safer and more efficient commercial access than otherwise allowed while at the same time not generating any significant adverse impacts as outlined in Finding of Fact No. 5.

**RECOMMENDATION**

It is recommended that the City Council approve the requested rezone. As outlined in this decision, the proposed rezone is necessary to ensure legally mandated consistency between the City’s comprehensive plan map and zoning map, will enable the construction of a safer and more efficient access point than without the rezone, will promote economic development and will not create any significant adverse impacts.

Dated this 25th day of October 2017.

City of Woodinville Hearing Examiner

[Signature]