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4 **BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE**  
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7 In the Matter of the Rezone Proposal of

8 **Red Town**

9 For a Rezone from R-3.5 (Single-Family  
10 Residential) to R-7.5 (Single-Family  
11 Residential) at 16425 SE Cougar Mountain  
Way  
Bellevue WA

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND RECOMMENDATION**

**File No. 18-103926-LQ**

12  
13 **SUMMARY**

14 **Recommendation.** The Hearing Examiner recommends that the Bellevue City Council,  
15 subject to conditions, **APPROVE** the proposed Rezone.

16 **Proposal.** The applicant, Shawn Bliss, seeks a Rezone of a 1.56-acre site at 16425 SE  
17 Cougar Mountain Way from R-3.5 (Single-Family Residential) to R-7.5 (Single-Family  
18 Residential) consistent with the Comprehensive Plan Amendment which modified the  
19 Comprehensive Plan designation of the property from SF-M (Single Family-Medium) to SF-  
UR (Single-Family Urban).

20 **Procedure.** A notice of this zoning designation change was published on February 22,  
21 2018. Notice of a public hearing before the Planning Commission was published on May 24,  
22 2018, and a public hearing was held before the Planning Commission on June 13, 2018. On  
23 December 10, 2018, the City Council adopted the proposed amendment to the Comprehensive  
Plan (Ordinance 6448 at Exhibit C-1, Staff Report Attachment).

24 On January 17, 2019, a notice of the re-application for zoning designation change was  
25 issued. A public meeting ensued on January 29, 2019. Only one member of the public attended

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1 the meeting and did not comment on the proposed Rezone but asked about future development.  
2 Planning staff also received one email concerning future development. No development is  
3 currently planned at the site at issue and staff determined that issues regarding any future  
4 development would be addressed appropriately during the review process for future proposals.  
(See Exhibit C-1, Staff Report).

5 The Development Services Department issued a Determination of Non-Significance  
6 (DNS) under the State Environmental Policy Act on October 4, 2018 (See File 18-103926-AC)  
7 upon finding that the proposal at issue would not have a probable, significant adverse impact  
8 on the environment (Staff Report, Exhibit 1). The DNS was not appealed.

9 The City issued a staff report and a recommendation for approval of the proposed  
10 Rezone on April 4, 2019 (Staff Report, Exhibit 1).

11 Upon due notice, the undersigned Hearing Examiner held a hearing in the Bellevue City  
12 Council Chambers on April 18, 2019. Laurie Tyler, Senior Land Use Planner, City of Bellevue,  
13 presented a staff report and testified on behalf of the City. No public testimony was offered.  
14 The applicant was present but did not testify.

15 Hearing Examiner Program Coordinator, Karen Hohu was also present at the hearing  
16 and created an audio recording of the proceeding.

17 The City's Staff Report with accompanying file materials was admitted into evidence as  
18 Exhibit C-1, and the City's Power Point presentation was admitted as Exhibit C-2.

19 The undersigned Examiner visited the site at issue prior to the hearing.

## 20 **FINDINGS OF FACT**

21 1. The Examiner adopts the factual matters set forth in the foregoing **SUMMARY** as  
22 findings.

23 2. The Applicant, Shawn Bliss, owns the site at issue at 16425 SE Cougar Mountain  
24 Way in Bellevue.

25 3. The site at issue has an area of about 1.56 acres in the Newcastle subarea. Most of the  
property is covered with brush and trees. A trailer and a shed also occupy the property.

4. The site is bordered by SE Cougar Mountain Way and three existing single-family  
properties to the north; by Cougar Mountain Open Space on the southwest; and by a private  
recreation and public storm tract to the south (Albright Subdivision).

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1 5. The site is currently in the R-3.5 (Single-Family Residential) land use district and is  
2 adjacent to the R-7.5 (Single-Family Residential) land use district to the west, with designation  
3 R-3.5 to the south, north and east, as detailed in the Staff Report at Exhibit C-1.

4 6. The Bellevue City Council approved the Comprehensive Plan Amendment  
5 (Ordinance 6448) and the corresponding SEPA review on December 10, 2018. The Council  
6 thus changed the Comprehensive Plan designation of the site at issue from SF-M (Single  
7 Family-Medium) to SF-UR (Single-Family Urban). With this change, the appropriate zoning  
8 designation should be changed from R-3.5 to R-7.5, which is still a detached single-family  
9 residential designation but equates to 7.5 units per acre for efficient land use while retaining  
10 unique wetland, slope and open areas, as described in the City's staff report.

11 7. If the Rezone is approved, any future development for the site will be subject to  
12 project-specific review and other required approvals under the Bellevue City Code.

13 8. The proposed Rezone meets all applicable requirements, as Senior City Planner Ms.  
14 Tyler testified credibly and as explained in the Staff Report (Exhibit C-1).

15 9. The City's Utilities Department technical staff concluded that existing services  
16 provided sufficient capacity for this site and suggested no utilities-related conditions for this  
17 site (Staff Report, Exhibit C-1).

18 10. The City's Transportation Department analyzed the site and found that development  
19 of the site would result in "few additional vehicle trips" and did not expect "significant traffic  
20 or transportation impact." Any future development proposal shall include transportation  
21 review.

22 11. The proposed Rezone aligns with the Comprehensive Plan and policies regarding  
23 regional growth, new residential development, and density patterns (See Land Use Policies  
24 LU-5 and LU-6, and Newcastle Subarea Policy S-NC-11 at Staff Report, Page 9, Exhibit C-1).

25 12. The proposed Rezone will promote the public welfare by fulfilling a community  
need. The new designation assures that the current site meets some evolving needs of citizens.

13. The proposed Rezone will provide consistency between the Comprehensive Plan, as  
amended by the City Council, and the requested zoning designation. In addition, the Rezone is  
consistent with Newcastle Subarea policies and with the zoning of property to the west and in  
the Albright Subdivision to the South.

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1 14. The proposed Rezone will not be a material detriment to the uses or property in its  
2 vicinity. Indeed, the Rezone supports the vision from the Newcastle Subarea of the  
3 Comprehensive Plan, which encourages development consistent with the existing character of  
4 established neighborhoods.

5 15. The Rezone will add value to the community by providing new opportunities for  
6 single-family residences consistent with the character of the neighborhood and the  
7 Comprehensive Plan.

8 16. The Staff Report thoroughly analyzes the rezoning proposal in light of the criteria  
9 under LUC 20.30A.140, and finds that, as conditioned, the Rezone will be consistent with that  
10 ordinance. Basically, as the City's Land Use Division found: the Rezone proposal is  
11 consistent with the Comprehensive Plan; the Rezone is warranted to achieve consistency with  
12 the updated Comprehensive Plan and the Land Use Code; the Rezone promotes the public  
13 welfare; the Rezone is compatible with the surrounding area; the Rezone presents no materially  
14 detrimental uses in the immediate vicinity of the site; and the Rezone has "merit and value for  
15 the community as a whole" by addressing community needs.

16 17. The Hearing Examiner concurs with the City's analysis and adopts the same. The  
17 Staff Report is incorporated by reference herein as though fully set forth.

18 18. Any conclusion herein which may be deemed a finding is hereby adopted as such.

#### 19 CONCLUSIONS OF LAW

20 1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.  
21 The application is subject to Process III, under which the Examiner makes a recommendation  
22 following a public hearing and the City Council makes the final decision. LUC 20.35.015D,  
23 LUC 20.35.300 *et seq.*

24 2. The proposed Rezone is consistent with the decision criteria of LUC 20.30A.140 in  
25 that it complies with the Comprehensive Plan under LUC 20.30A.140A, and meets the other  
26 criteria including providing "value for the community as a whole" under LUC 20.30A.140E.  
27 Each condition under LUC 20.30A.140 was carefully analyzed in the City's Staff Report and  
28 the conclusions in that report are incorporated by reference in this recommendation.

29 3. The proposed Rezone is consistent with Land Use Elements and Newcastle Subarea  
30 Policies.

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1 4. The proposal requires no physical change to the site and no redevelopment of any  
2 type. Any future uses will require compliance with the Land Use Code and other applicable  
3 ordinances, regulations and legal provisions.

4 5. As conditioned, the proposed Rezone is consistent with the State Environmental  
5 Policy Act and with the decisional criteria for a Rezone. WAC 197-11-355; LUC 20.30A.140.

6 6. The requested Rezone should be approved.

7 7. Any finding herein which may be deemed a conclusion is hereby adopted as such.

8 **CONDITION**

9 Approval of this Rezone does not constitute an approval of any Land Use Code  
10 amendments, Land Use Entitlement review, or any other ancillary permits that may be required  
11 for design and construction of any proposed development on the Rezone site.

12 **RECOMMENDATION**

13 The Hearing Examiner recommends that the City Council **APPROVE** the Rezone  
14 application subject to the condition set forth above.

15 DONE this 30<sup>th</sup> day of April 2019.

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17 Robin Lindley, Hearing Examiner KH

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1 **NOTICE OF RIGHT TO APPEAL**

2 (Pursuant to Resolution No. 9473)

3 **RIGHT TO APPEAL-TIME LIMIT**

4 Persons and entities identified in Land Use Code (LUC) 20.35.350, may appeal the  
5 recommendation of the Hearing Examiner to the Bellevue City Council by filing a written  
6 statement of the Findings of Fact or Conclusions of Law which are being appealed, and paying a  
7 fee, if any, as established by ordinance or resolution, no later than 14 calendar days following the  
8 date that the recommendation was mailed. The written statement must be filed together with an  
9 appeal notification form, available from the City Clerk. The written statement of appeal, the  
10 appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later  
11 than **5:00 p.m. on Thursday, May 16, 2019.**

9 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

10 An appeal of the Hearing Examiner's recommendation requires the preparation of a  
11 transcript of the hearing before the Hearing Examiner. Within thirty (30) days of the decision  
12 which is appealed from, the appellant shall order from the City Clerk, on a form provided by the  
13 Clerk, a full transcript of the hearing before the Hearing Examiner. At the time the order for  
14 transcription is placed, the appellant shall post security in the amount of One Hundred Dollars  
15 (\$100.00) for each hearing hour to be transcribed. If appellant fails to post security, the appeal  
16 shall be considered abandoned.

15 Additional requirements and procedures concerning appeals filed with the Council are  
16 found at Resolution 9473 and in the City of Bellevue Land Use Code.

16 **CITY COUNCIL CONSIDERATION**

17 Unless appealed, this matter has tentatively been scheduled to go before the City Council  
18 on **Monday, June 3, 2019 at 8:00 p.m.** for consideration, and **Monday, June 17, 2019 at 8:00**  
19 **p.m.** for final action. After Thursday, May 16, 2019, interested persons may contact the Hearing  
20 Examiner's Office at (425) 452-6934 to find out whether an appeal has been filed.  
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AFFIDAVIT OF SERVICE

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

Karen Hohn, being first duly sworn upon oath, deposes and states:

In the Matter of Red Town Rezone, on the 2nd day of May 2019, I served a copy of:

*FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION*

BY ELECTRONIC SERVICE – EMAIL by electronically mailing a true and correct copy thereof through the City of Bellevue’s electronic mail system to the email address(es) set forth below:

ltyler@bellevuewa.gov  
smbliiss@msn.com

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Bellevue, Washington on this 2nd day of May 2019.

*Karen Hohn*

\_\_\_\_\_  
Karen Hohn  
Hearing Examiner Program Coordinator

Subscribed and sworn this 2<sup>nd</sup> day of May, 2019



*Sarah Knox*  
\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at Seattle  
My appointment expires: 7/23/2020

Application, Petition or Case:

Red Town—Application for Rezone

File No.: 18-103927-LQ