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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application of)
)
Mike McClure, MJR Development)
(JMS Ventures) for Belle-View)
Office Park)
)
)
For a Rezone to repeal a 1977 concomitant)
Zoning Agreement (Ordinance No. 2445) for)
275/325 118th Avenue SE, Bellevue)
_____)

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

FILE NO. 15-107116-LQ

SUMMARY

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

Proposal. Proponent Mike McClure, MJR Development, seeks a rezone to repeal a 1977 Concomitant Zoning Agreement (Ordinance No. 2445) as it pertains to the site of the Belle-View Office Park at 275/325 118th Avenue SE. The Proponent does not request any change to the existing land use designation of Office (O) or to the Transition Area Design District Overlay.

Procedure. The Applicant, Mike McClure, MJR Development, filed for a rezone to remove a 1977 Concomitant Zoning Agreement on March 11, 2015. Notice of Application was published on June 4, 2015. Mailing, posting and publication of the application were appropriately accomplished.

A public meeting was held on June 9, 2015. No citizens attended the public meeting and the City received no other comments from the public (Staff Report, Exhibit 1).

The City of Bellevue (“the City”) issued a staff report and a recommendation for approval of the proposed rezone on November 19, 2015 (Staff Report, Exhibit 1).

Upon due notice, the undersigned Hearing Examiner held a hearing in the Bellevue City Council Chambers on December 9, 2015. Laurie Tyler, Associate Land Use Planner, City of Bellevue, presented a staff report and testified on behalf of the City. Proponent Mike McClure, MJR Development, testified and also presented a Power Point outline in support of the proposal.

1 No public testimony was offered. Hearing Office Manager Sara Gollersrud was also present and
2 recorded the hearing.

3 The City's Staff Report with accompanying file materials was admitted into evidence as
4 Exhibit 1, and a paper copy of the City's Power Point presentation was admitted as Exhibit 2. A
5 Power Point from Proponent, Mr. McClure, was admitted as Exhibit 3.

6 FINDINGS OF FACT

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

9 2. The Applicant, Mike McClure, MJR Development, requests repeal of the 1977
10 Concomitant Zoning Agreement (Ordinance No. 2445) for the Belle-View Office Park parcels at
11 275/325 118th Avenue SE. No change is requested for the current land use designation of Office
12 ("O") or for the Transition Area Design District Overlay.

13 3. The two parcels at issue have a combined area of 3.68 acres in the Wilburton subarea.
14 The parcels currently contain two office buildings constructed in 1984 and recently remodeled.
15 (*See* Staff Report, Exhibit 1). This site has an Office (O) land use designation and is within the
16 Transition Area Design District.

17 4. The sites around the parcels at issue are zoned for multifamily residential uses (R-20)
18 to the north and east, office uses (O) to the south, and community business (CB) to the west. A
19 rail corridor is located directly west of the subject parcels.

20 5. As described in the staff report (Exhibit 1), the 1977 Concomitant Zoning Agreement
21 in question placed conditions on development on the subject parcels when they were rezoned
22 from residential and agricultural (R-A) to Office (O). These conditions were intended to assure
23 careful review of any development impact to the surrounding neighborhood.

24 6. The requirements of the 1977 Concomitant Zoning Agreement are outdated and
25 inconsistent with current Land Use Code provisions by, in some ways, restricting development
26 beyond what is now permissible. For example, the standards for building units, building height,
27 and parking requirements are more restrictive under the 1977 agreement than under current
28 standards (*See* detailed comparisons of the 1977 provisions and current standards in the Staff
29 Report, pp. 5-9, Exhibit 1). However, landscape and tree retention standards, for example, are
30 now more restrictive than the 1977 provisions.

1 7. Removing the 1977 Concomitant Zoning Agreement will assure that any future
2 development will align with current land use ordinances and the Comprehensive Plan, and allow
3 for enhanced development for office or multifamily units accordingly.

4 8. If the rezone is approved, any future development for the site will be subject to project-
5 specific review and other required approvals under the Bellevue City Code.

6 9. The proposed rezone meets all applicable rezone requirements, as Associate City
7 Planner Ms. Tyler testified credibly and as explained in the Staff Report. Further, no
8 development proposal accompanied the rezone application.

9 10. The City's Utilities Department technical staff concluded that the proposed Rezone
10 raised no utilities-related concerns (Staff Report).

11 11. The City's Transportation Department analyzed the site at issue and indicated that
12 further review and planning for mitigation of traffic changes would depend on proposed future
13 development (Staff Report, p. 13, Exhibit 1).

14 12. The proposed rezone is consistent with the Comprehensive Plan. The parcels at issue
15 rest within the Wilburton/ 8th Street Subarea as identified in the Plan. The rezone is also
16 consistent with Land Use Elements regarding planning, growth, housing, and density (See LU-4;
17 Lu-5; and LU-7; and Staff Report p. 10, Exhibit 1).

18 13. Removal of the 1977 Concomitant Zoning Agreement will allow either additional
19 office density or multifamily residential space consistent with the current Land Use Code and
20 compatible with the development of surrounding properties. The contemplated uses for office
21 units or for multifamily dwelling units is also consistent with current Wilburton/ NE 8th Street
22 Subarea policies (S-WI-10 and S-WI-31). The surrounding properties already have been
23 improved with both office and multifamily residential developments.

24 14. The repeal of the 1977 Concomitant Zoning Agreement will not allow any land uses
25 beyond those allowed on surrounding property under current zoning and any future development
26 will be enhanced under the current land use standards.

27 15. The proposed rezone will achieve consistency with the Comprehensive Plan, Land
28 Use Elements, and the Land Use Code.

29 16. The proposed rezone is compatible and consistent with the uses in the surrounding
30 area and will not be materially detrimental to uses on the subject property or its environs.

12/22/2015

1 17. The proposed rezone has merit for the whole community because it allows
2 appropriate uses—office and multifamily residential uses— consistent with the Comprehensive
3 Plan policies for the Wilburton / 8th Street Subarea and Land Use Element policies on growth
4 and density.

5 18. The proposed rezone creates value for the community by allowing the site at issue to
6 meet changing community needs by adjusting uses in line with current law and policy and
7 thereby enhancing redevelopment potential for the site.

8 19. The Staff Report thoroughly analyzes the rezoning proposal in light of the criteria
9 under LUC 20.30A.140, and finds that the rezone will be consistent with that ordinance.
10 Basically, as the City’s Land Use Division found: the rezone proposal is consistent with the
11 Comprehensive Plan; the rezone is warranted to achieve consistency with the updated
12 Comprehensive Plan and the Land Use Code; the rezone promotes public welfare by aligning the
13 standards governing the subject property with current law and policies; the rezone is compatible
14 with the surrounding area; the rezone presents no materially detrimental uses in the immediate
15 vicinity of the site; and the rezone has “merit and value for the community as a whole” by
16 permitting the site to meet changing community needs.

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

19 21. Any conclusion herein, which may be deemed a finding, is hereby adopted as such.

20 CONCLUSIONS OF LAW

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

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

30 3. The proposed rezone is consistent with Land Use Element Policies.

1 4. The proposal to remove the 1977 Concomitant Zoning Agreement requires no physical
2 change to the site and no redevelopment of any type, and any new future uses will require
3 compliance with the Land Use Code and other applicable ordinances, regulations and legal
4 provisions.

5 5. The requested rezone to remove the provisions of a 1977 Concomitant Zoning
6 Agreement from the subject parcels should be approved.

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

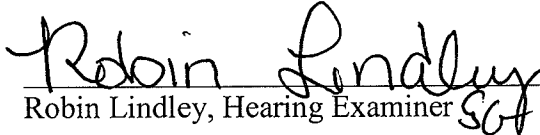
8 **CONDITIONS**

9 No conditions of approval were identified regarding this requested rezone, but any future
10 development or other physical changes to the site must comply with applicable Land Use Code
11 provisions and any other requirements.

12 **RECOMMENDATION**

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

15 DONE this 22nd day of December 2015.

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19 Robin Lindley, Hearing Examiner *SL*

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22 **NOTICE OF RIGHT TO APPEAL**

23 **RIGHT TO APPEAL-TIME LIMIT**

24 A person who submitted written comments to the Director prior to the hearing, or
25 submitted written comments or made oral comments during the hearing on this matter, may
26 appeal the recommendation of the Hearing Examiner to the Bellevue City Council by filing a
27 written appeal statement of the Findings of Fact or Conclusion being appealed, and paying any
28 appeal fee, no later than 14 calendar days following date that the recommendation was mailed.
29 The appeal must be received by the City Clerk by **5:00 p.m. Thursday, January 7, 2016.**

30 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

An appeal of the Hearing Examiner's decision requires the preparation of a transcript of
the hearing before the Hearing Examiner. Therefore, the request for appeal must be

1 accompanied by an initial deposit of \$100. Should the actual cost be less the amount of the
2 deposit, any credit due shall be reimbursed to the appellant. Should the cost for transcript
3 preparation be more than the deposit, the appellant will be additionally charged.

4 **WAIVER OF TRANSCRIPTION FEE**

5 Upon request, the City Clerk will waive transcription fees upon submission by an
6 appellant of the following documentation: a) an affidavit stating that the appellant's net financial
7 worth does not exceed \$20,000; b) an affidavit stating that the appellant's annual income does
8 not exceed \$5,200; c) a brief statement of the issues sought to be reviewed; d) a designation of
9 those parts of the record the party thinks are necessary for review; e) a statement that review is
10 sought in good faith.

11 **CITY COUNCIL CONSIDERATION**

12 Unless appealed, this matter has tentatively been scheduled to go before the City Council
13 **Tuesday, January 19th at 6:00 pm** for discussion, and **February 1, 2016 at 8:00 pm** for
14 legislation. After Thursday, January 7, 2016, interested persons may contact the Hearing
15 Examiner's Office at (425) 452-6934 to find out whether an appeal has been filed.
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