

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of an Application for)
For Rezone of 4.67 Acres at 14510)
NE 20th Street.)
)
MOUNTVUE PLACE REZONE)
)
)
)

File No. 14-123965 LQ

SUMMARY

1. Recommendation. The application should be approved, changing the zoning of the subject property from Bel-Red-General-Commercial (BR-GC) to Bel-Red-Commercial-Residential (BR-CR)

2. Request. To change the zoning of the property to be consistent with a Comprehensive Plan amendment adopted December 4, 2014 (Ordinance 6211). The site is on NE 20 Street, bordered on the west by low-rise retail, office and warehousing and on the east by Fred Meyer. At present the 4.67 acre parcel is split zoned with the street-side portion being BR-CR and the back portion being BR-GC.

3. Procedure. Ordinance 6211 amended the Comprehensive Plan to adopt a single designation of BR-CR for the property. The purpose of the instant rezone is to implement the City Council's policy decision by unifying the zoning for the entire property under BR-CR. The application was filed on January 31, 2015, and public notice was made on February 22, 2015. No public comments were received.

The public hearing was held on due notice on June 18, 2015. Leah Chulsky, Associate Planner, represented the City. Patrice Tovar appeared for the applicant Joe Tovar. There was no public testimony. A letter from Joe Tovar analyzing the application under the criteria for zoning approval in the Land Use Code was submitted and added to the record.

7/2/2015

1 **FINDINGS OF FACT**

2 1. The subject property, known as Mountvue Place, is 4. 67 acres in size and contains
3 two single-story buildings and two two-story buildings housing a mixture of retail, office and
4 service businesses. The owners are Michele and Paul Etsekson, dba Active Investment Co.,
5 LLC. The buildings were built in the early 1980's. There is on-site surface level parking,
6 accessed from NE 20th Street.

7 2. The property is bordered on the west by low-rise retail, office and warehousing, and
8 on the east by a large Fred Meyer store which fronts on 140th Avenue NE. At present, no
9 redevelopment of the property is proposed.

10 3. With the adoption of Ordinance 6211 on December 4, 2014, the City Council erased
11 the split designation on the Comprehensive Plan map and gave the entire property the single plan
12 designation of BR-CR. The Comprehensive Plan change was a part of the 2014 Annual
13 Amendments to the Comprehensive Plan to insure compliance of the plan with the requirements
14 of the Growth Management Act.

15 4. The instant proceeding seeks to bring the zoning designation into conformity with the
16 Comprehensive Plan change. In effect, this means dropping the BR-GC zoning for a portion of
17 the property and bringing it all under the zoning designation of BR-CR.

18 5. A Determination of Non Significance for Non-Project Action was issued October 23,
19 2014 under the file for the Comprehensive Plan Change (File No 14-123964-AC). The subject
20 rezone is likewise a non-project action and requires no further review under the State
21 Environmental Policy Act (SEPA).

22 6. Should a redevelopment proposal be made for the property, project-specific SEPA
23 review will be required. Any future redevelopment will have to comply with all relevant
24 provisions of the Land Use Code.

- 25 7. The criteria for approval of a rezone are set forth at LUC 20.30A.140, as follows:
26 A. The rezone is consistent with the Comprehensive Plan; and
27 B. The rezone bears a substantial relation to the public health, safety, or welfare;
28 and
29 C. The rezone is warranted in order to achieve consistency with the
30 Comprehensive Plan or because of a need for additional property in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

proposed land use district or because the proposed zoning classification is appropriate for reasonable development of the subject property; and

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

E. The rezone has merit and value for the community as a whole.

8. The Staff Report analyzes the proposed rezone in light of the above criteria and finds that the proposal is consistent with them. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. LUC 20.35.337. Site-specific rezones are Process III decisions which are quasi-judicial decisions made by the City Council. The Hearing Examiner's role is to hold a public hearing, create a record, and make a recommendation for decision by the Council.

2. The requirements of SEPA have been met.

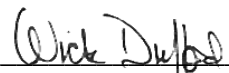
3. The proposed rezone meets the applicable decision criteria of LUC 20.30A.140. The criteria implement the requirement of the Growth Management Act for consistency between zoning and the Comprehensive Plan.

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

RECOMMENDATION

The proposed rezone of Mountvue Place to BR-CR should be **approved**.

DONE, this 2nd, day of July, 2015.



Wick Dufford, Hearing Examiner

1
2 **NOTICE OF RIGHT TO APPEAL**

3 (Pursuant to Resolution No. 5097)

4
5 **RIGHT TO APPEAL-TIME LIMIT**

6 A person who submitted written comments to the Director prior to the hearing, or
7 submitted written comments or made oral comments during the hearing on this matter, may
8 appeal the recommendation of the Hearing Examiner to the Bellevue City Council by filing a
9 written appeal statement of the Findings of Fact or Conclusion being appealed, and paying any
10 appeal fee, no later than 14 calendar days following date that the recommendation was mailed.
11 The appeal must be received by the City Clerk by **5:00 p.m. on Thursday, July 16, 2015.**

12 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

13 An appeal of the Hearing Examiner's decision requires the preparation of a transcript of
14 the hearing before the Hearing Examiner. Therefore, the request for appeal must be
15 accompanied by an initial deposit of \$100 per recording hour. Should the actual cost be less the
16 amount of the deposit, any credit due shall be reimbursed to the appellant. Should the cost for
17 transcript preparation be more than the deposit, the appellant will be additionally charged.

18 **WAIVER OF TRANSCRIPTION FEE**

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

25
26 **CITY COUNCIL CONSIDERATION**

27 Unless appealed, this matter has tentatively been schedule to go before the City Council
28 on **Monday, July 20, 2015 at 6:00 pm** for discussion, and **Monday, August 3, 2015 at 8:00 pm**
29 for legislation. After **Thursday, July 16, 2015**, interested persons may contact the Hearing
30 Examiner's Office at (425) 452-6934 to find out whether an appeal has been filed.

7/2/2015