

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

BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application for
100 Bellevue

For a Rezone of a Parcel Split-Zoned
Downtown Mixed Use (DT-MU) and Office
(O) to Downtown Mixed Use (DT-MU) for
the Entire Parcel

DSD File No.: 21-100101-LQ

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

SUMMARY OF RECOMMENDATION

The Hearing Examiner respectfully recommends that the Bellevue City Council **APPROVE** the requested rezone, subject to the condition contained at the end of this recommendation.

REZONE REQUEST

The Applicant, Jon O’Hare of Permit Consultants NW (“PCNW”) on behalf of SRM Development, LLC (“Applicant”), requests a rezone of a .87-acre parcel (“property”) that is split-zoned Downtown Mixed Use (DT-MU) and Office (O), to re-classify the entirety of the property Downtown Mixed Use (DT-MU). No development application accompanies the proposal at this time.

The proposed rezone would achieve consistency with a comprehensive plan amendment enacted by the Bellevue City Council in December 2020, which changed the planning designation from split Office (O) and Downtown Mixed Use (DT-MU) to a single Downtown Mixed Use (DT-MU) for the entire parcel.

6/3/21

**CITY OF BELLEVUE
450 – 110th Avenue NE
P. O. Box 90012
Bellevue, WA 98009-9012**

CONTENTS OF THE RECORD

The record consists of Exhibit C-1, the DSD project file (pages 1 through 231); Exhibit C-2, DSD Staff Report, Exhibit C-3, City’s PowerPoint Presentation; and Exhibit A-1, Applicant’s PowerPoint Presentation. The record also includes the audio recording of the virtual public hearing held May 20, 2021 at 6:00 p.m. The Examiner heard witnesses from both the City and the Applicant.

PROCEDURE

A rezone application is a Process III decision governed by Land Use Code (LUC) 20.35.030. The Hearing Examiner is responsible for holding a public hearing and making a recommendation to the City Council. The City Council makes the final decision on behalf of the City.

A Notice of Application was published in the City of Bellevue’s Weekly Permit Bulletin on February 11, 2021. Notice was mailed to property owners within 500 feet of the property. The Department held a public meeting on March 3, 2021. No one from the public attended the meeting.

The Development Services Department (“Department”) published a recommendation of approval with conditions on April 29, 2021. For compliance with the State Environmental Policy Act (“SEPA”), the Department relied on a Determination of Non-Significance (“DNS”) issued on October 8, 2020 for the previously approved comprehensive plan amendment (file #20-102643-AC) on the project pursuant to BCC Chapter 22.02.

After appropriate public notice, the Hearing Examiner held a virtual public hearing on May 20, 2021 at 6:00 p.m. The Applicant was represented by Thaddaeus J. Gregory, attorney from Hillis Clark Martin and Peterson P.S. The Department was represented by Mark Brennan, Associate Land Use Planner. Both Mr. Brennan and Mr. Gregory made presentations at the public hearing. Ms. Kelly Carlson of Runberg Architecture Group also testified on behalf of the Applicant.

As required by the code, the Hearing Examiner must issue his or her recommendation or decision within 10 working days of the hearing.

FINDINGS OF FACT

1 1. Prior to December 2020, the .87-acre parcel located at 100 Bellevue Way S.E.
2 carried a split planning designation of Office (O) and Downtown Mixed Use (DT-MU). On
3 December 14, 2020, the Bellevue City Council enacted a Comprehensive Plan Amendment
4 (“CPA”) (File No. 20-102643-AC) to designate the entire parcel DT-MU. The entire parcel is
5 now part of the Downtown Subarea. The zoning was not changed at that time, however, and the
6 property continues to be split-zoned Downtown Mixed Use (DT-MU) and Office (O), a zoning
7 classification that is inconsistent with the new plan designation adopted in the CPA.

8 2. The Applicant is proposing a rezone for the property to bring the zoning
9 classification into conformance with the comprehensive plan designation. The new zoning
10 classification for the entire parcel would be Downtown Mixed Use (DT-MU), thereby
11 eliminating the split zoning and bringing the parcel’s zoning into consistency with the
12 Comprehensive Plan. Although there are no other development applications before the Hearing
13 Examiner, the Applicant’s representative testified at the hearing that it plans to construct a
14 mixed-use residential and commercial development, with 60-90 new housing units.

15 3. The site is adjacent to the corner of Bellevue Way S.E. and Main Street,
16 considered a gateway to the Downtown Subarea. It is a .87-acre site currently occupied by a
17 small one-story strip mall. The land uses surrounding the site include: to the north, a fast food
18 restaurant; to the east, parking lots and a professional office; to the south, an office building;
19 and to the west, multi-family development and offices.

20 4. In the Applicant’s presentation at the hearing, Mr. Gregory outlined the planning
21 purposes for the rezone. He indicated that the rezone would accomplish the following: 1) fix a
22 split-zoned property; 2) provide housing; 3) foster a transformative gateway for the Downtown
23 Subarea; and 4) support the City Center South neighborhood.

24 5. The open record public hearing was convened on this rezone application on May
25 20, 2021 at 6:00 p.m. The hearing was conducted virtually due to the restrictions resulting
from the coronavirus pandemic. Represented at the hearing were the Applicant and the
Department. No members of the public attended or testified.

 6. Any finding of fact which is a conclusion law herein is hereby adopted as such,
and vice versa.

6/3/21

CONCLUSIONS OF LAW

1 1. The Hearing Examiner has jurisdiction over this application. Under LUC
2 20.35.340.A, the following recommendation criteria apply:

3 The Examiner shall recommend approval or approval with conditions or
4 modification if the applicant has demonstrated that the proposal complies with the
5 applicable decision criteria of the Bellevue City Code. The applicant carries the
6 burden of proof and must demonstrate that a preponderance of the evidence
7 supports the conclusion that the application merits approval or approval with
8 modifications. In all other cases, the Hearing Examiner shall recommend denial of
9 the application.

10 2. Under LUC 20.35.340.C, the Hearing Examiner may include conditions to
11 ensure the proposal conforms to the relevant decision criteria.

12 3. LUC 20.35.340.D provides the relevant requirements for the Hearing
13 Examiner’s recommendation to the City Council:

14 **D. Written Recommendation of the Hearing Examiner.** The Hearing
15 Examiner shall within 10 working days following the close of the record
16 distribute a written report including a recommendation on the public hearing. The
17 report shall contain the following:

- 18 1. The recommendation of the Hearing Examiner; and
- 19 2. Any conditions included as part of the recommendation; and
- 20 3. Findings of facts upon which the recommendation, including any
21 conditions, was based and the conclusions derived from those facts; and
- 22 4. A statement explaining the process to appeal the recommendation of the
23 Hearing Examiner; and
- 24 5. The date on which the matter has been scheduled for consideration by the
25 City Council and information on how to find out whether the Examiner’s
recommendation has been appealed.

 4. A property may be rezoned if the proposal meets the criteria contained in BCC
20.30A.140:

- A. The rezone is consistent with the Comprehensive Plan; and
- B. The rezone bears a substantial relation to the public health, safety, or welfare;
 and

1 C. The rezone is warranted in order to achieve consistency with the
2 Comprehensive Plan or because of a need for additional property in the proposed
3 district land use classification or because the proposed zoning classification is
4 appropriate for reasonable development of the subject property; and

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

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

8 5. The Staff Recommendation has done a very thorough job of documenting how
9 the proposal meets the requirements for rezone approval and the Hearing Examiner
10 incorporates the discussion contained in Exhibit C-2 at 8-10 by reference in its entirety as a
11 part of this recommendation. In addition, the Hearing Examiner adds the following
12 conclusions, corresponding to the rezone criteria A- E as identified in Conclusion 4:

13 A. The rezone will bring the zoning into consistency with the Comprehensive Plan, as
14 required by the Washington State Growth Management Act;

15 B. The site is within and adjacent to the urban Downtown area, and is in close
16 proximity to transit and other urban services. The rezone will promote public health, safety,
17 and welfare because it will allow for additional housing near to the urban core of the City,
18 contributing to the vitality of Downtown;

19 C. The City Council has already made the determination that this parcel should be
20 within the Downtown Subarea. This rezone will simply change the zoning classification so
21 that the zoning is consistent with the Comprehensive Plan designation;

22 D. There is no evidence in the record suggesting the rezone will be materially
23 detrimental to uses or property in the immediate vicinity of the subject property; to the
24 contrary, the evidence in the record indicates that the provision of more available housing and
25 the addition of the entire parcel as a gateway to Downtown will be a very positive
transformation; and

E. The rezone has merit to the community as a whole, in that it furthers the goals of
the Growth Management Act found at RCW 36.70A.020, including but not limited to: Goal
1, which encourages urban growth in urban areas where services are available; Goal 2, which
encourages communities to reduce sprawl; and Goal 4, which encourages affordable housing.

6/3/21

1 Dollars (\$100.00) for each hearing hour to be transcribed. If appellant fails to post security,
2 the appeal shall be considered abandoned.

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

5 **CITY COUNCIL CONSIDERATION**

6 Unless appealed, this matter has tentatively been scheduled to go before the City
7 Council on **Monday, June 21, 2021 at 6:00 p.m.** for consideration, and **Monday, July 12,
8 2021 at 6:00 p.m.** for final action. After (appeal deadline) **Thursday, June 17, 2021,**
9 interested persons may contact the Hearing Examiner’s Office at (425) 452-6934 to find out
10 whether an appeal has been filed.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25