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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application for

DSD File No.: 22-127108-LQ

NCR BUILDING REZONE

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

For a Rezone of a 3.17 Acre Parcel from Office (O) to Office Limited Business 2 (OLB-2)

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, Keaton Hille of Hanson Baker (“Applicant”), requests a rezone of a 3.17-acre parcel located within the Eastgate Subarea, at 15400 SE 30th Place, near Interstate 90 (“property”). The Applicant requests a rezone from Office (O) to Office Limited Business 2 (OLB-2)). No development application accompanies the proposal at this time.

The proposed rezone would achieve consistency with a City Council 2017 comprehensive plan amendment that changed the comprehensive plan designation of the property from Office (O) to Office Limited Business (OLB). Bellevue City Council Ordinance No. 6393. The Hearing Examiner reviewed the rezone request at a public hearing held on March 30, 2023.

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CONTENTS OF THE RECORD

The record consists of Exhibit C-1, the Development Services Department (“Department”) project file; and Exhibit C-2, the Department’s PowerPoint Presentation. The record also includes the audio recording of the public hearing held March 30, 2023 at 6:00 p.m.

PROCEDURE

A rezone application is a Process III decision governed by Land Use Code (LUC) 20.35.300, *et seq.* 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.

The Development Services Department completed the following procedural steps in processing the rezone application:

- (a) A Notice of Application was published in the City of Bellevue’s Weekly Permit Bulletin on December 1, 2022 and mailed to property owners within 500 feet of the property;
- (b) The Department held a public meeting on December 14, 2022. No one from the public attended the meeting;
- (c) No public comments were submitted during the comment period, which ended December 15, 2022;
- (d) The Department published a recommendation of approval with conditions on March 9, 2023; and
- (e) The Department adopted a previously issued non-project Determination of Non-Significance (“DNS”) to comply with the State Environmental Policy Act (“SEPA”). The adopted DNS was originally issued on October 12, 2017, for the comprehensive plan amendment which changed the planning designation from Office (O) to Office Limited Business (OLB) (file #16-1023765-AC), approved by the Bellevue City Council pursuant to Ordinance No. 6393 on December 11, 2017. Exh. C-1 at 8.

1 The Hearing Examiner conducted the public hearing on March 30, 2023 at 6:00 p.m. in
2 the Bellevue City Council Chambers. Mr. Keaton Hille appeared on behalf of the Applicant.
3 The Department was represented by Ms. Amy Tarce, Senior Land Use Planner. Ms. Tarce made
4 a presentation at the public hearing, which is included in the record as Exhibit C-2. Mr. Hille
5 testified briefly that the Applicant supported the Department's recommendation. No members
6 of the public testified at the public hearing.

7 **FINDINGS OF FACT**

8 Each of the statements of fact, above, is hereby adopted as a Finding of Fact herein. The
9 Hearing Examiner makes the following additional findings of fact:

10 1. A privately initiated proposal to amend the Eastgate Subarea Plan Map was
11 submitted for consideration as part of the 2017 Comprehensive Plan annual amendments. The
12 proposal sought to change the *comprehensive plan designation* from Office (O) to Office
13 Limited Business (OLB) for the property located at 15400 SE 30th Place and adjacent properties
14 at 15325-15395 SE 30th Place, and 15500 SE 30th Place. The Bellevue City Council adopted the
15 proposed amendment pursuant to Ordinance No. 6393 on December 11, 2017.

16 2. The *zoning classification* for 15400 SE 30th Place was not changed at that time,
17 however, and the property continues to be zoned Office (O), a classification that is inconsistent
18 with the new comprehensive plan designation.

19 3. The Applicant is proposing a rezone for the property to make the zoning
20 classification consistent with the comprehensive plan designation. There are no current
21 development applications pending.

22 4. The Office Limited Business 2 (OLB-2) zone would allow greater building height
23 (up to 75 feet), a greater floor area ratio, and eliminate setbacks on all sides of the building. The
24 zone retains the same lot coverage, impervious surface coverage, and maximum hard surface
25 coverage limits. Exh. C-1 at 6. LUC 20.10.285 explains the purpose of the zone:

The purpose of the OLB-2 District is to provide an area of integrated
complexes made up of offices, hotels, or motels, eating and drinking
establishments, and retail sales within walking distance to support business and

1 employees. The OLB-2 District has greater intensity and a larger mix of uses than
2 the OLB district. Such districts are located in areas that abut and have convenient
access to freeways, major highways, and transit.

3 LUC 20.25C.050 provides standards and design guidelines for the OLB-2 District. Through a
4 combination of integration of environmental features, architectural compatibility, creation of
5 community gathering spaces, compatible parking structures and lots, an emphasis on pedestrian
6 routes, and architectural compatibility, the zone seeks to create a sense of place amongst
buildings in an urban landscape.

7 5. The subject property is approximately 3.17 acres (138,085 square feet) and is
8 within the Eastgate Subarea. Currently, the site is developed with a two-story building with
9 parking areas surrounding it on three sides, and a large accessory parking with perimeter
10 landscaping and large trees. The property is accessed through a single driveway from SE 30th
11 Place. The Interstate 90 access ramps are within a five-minute drive from the site. Exh. C-1 at 2-
3.

12 6. On March 8, 2021, the City Council approved a similar rezone from “O” to
13 “OLB-2” for the office park located directly adjacent and to the west of the property. Ordinance
14 No. 6569.

15 7. The property is bounded on the east by an office building occupied by the
16 Washington State Department of Natural Resources and zoned “O.” To the north is a large
17 office campus occupied by the Washington State Patrol, zoned R-5 (a low-density residential
18 estate zoning district). Other nearby land uses to the south include commercial uses primarily
19 zoned Commercial Business (“CB”): eating and dining establishments, hotels, retail, a bank,
20 office buildings, and a convenience store along 156th Avenue SE. Exh. C-1 at 3.

21 8. The northern half of the subject property is in a Single-Family Transition
22 Overlay due to the R-5 zoning of the Washington State Patrol campus to the north. Exh. C-1 at
23 3-4. However, pursuant to LUC 20.25B.020.B.9, “where a transition area abuts a single-family
24 or multifamily district and all properties that would receive transition are developed with legally
25 permitted nonresidential uses, the requirements of this [overlay district] shall not apply.”

1 9. The application for this rezone was filed October 24, 2022. The notice of
2 application was published on December 1, 2022. Pursuant to LUC 20.35.320, public notice was
3 provided to all property owners within 500 feet of the subject property on December 1, 2022.
4 Pursuant to LUC 20.35.327, a public meeting was held on December 14, 2022; no members of
5 the public attended. No public comments were received during the public comment period
6 required pursuant to LUC 20.35.325. Exh. C-1 at 6-7.

7 10. The Development Services Director issued a recommendation on the rezone on
8 March 9, 2023, for which notice was given pursuant to LUC 20.35.335. The Director's
9 Recommendation was for approval with one condition and is provided in the record at Exhibit
10 C-1. The proposed condition reads as follows:

11 Approval of this rezone does not constitute an approval of any Land Use Code
12 amendments, Land Use Entitlement review, or any other ancillary permits that may
13 be required for the design and construction of any proposed development on the
14 rezone state.

15 11. The open record public hearing was convened on this rezone application on
16 March 30, 2023 at 6:00 p.m. at the Bellevue City Council Chambers, pursuant to LUC
17 20.35.337. The hearing was conducted as a hybrid meeting (in-person and via online); two
18 persons participated remotely but did not testify. Represented at the hearing were the Applicant
19 and the Department. No members of the public attended in-person or testified. The Department
20 provided a PowerPoint presentation (viewable in-person and online), included in the record at
21 Exhibit C-2. The Applicant appeared and provided brief testimony indicating support for the
22 Department's presentation.

23 12. Simultaneous with the issuance of the Department's recommendation, the
24 Department adopted a previously issued non-project Determination of Non-Significance
25 ("DNS") to comply with SEPA. The adopted DNS was originally issued on October 12, 2017
for the Council's legislative amendment that changed the comprehensive plan designation from
Office (O) to Office Limited Business (OLB) (file #16-1023765-AC), approved by the Bellevue
City Council pursuant to Ordinance No. 6393 on December 11, 2017. Exh. C-1 at 8.

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

3 **CONCLUSIONS OF LAW**

4 1. The Hearing Examiner has jurisdiction to review and issue a recommendation
5 concerning this application. Under LUC 20.35.340.A, the following recommendation criteria
6 apply:

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

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

16 3. LUC 20.35.340.D provides the relevant requirements for the Hearing
17 Examiner's recommendation to the City Council:

18 **D. Written Recommendation of the Hearing Examiner.** The Hearing
19 Examiner shall within 10 working days following the close of the record
20 distribute a written report including a recommendation on the public hearing. The
21 report shall contain the following:

- 22 1. The recommendation of the Hearing Examiner; and
- 23 2. Any conditions included as part of the recommendation; and
- 24 3. Findings of facts upon which the recommendation, including any
25 conditions, was based and the conclusions derived from those facts; and
4. The date on which the matter has been scheduled for consideration by the
City Council.

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

- 1 A. The rezone is consistent with the Comprehensive Plan; and
2 B. The rezone bears a substantial relation to the public health, safety, or welfare;
and
3 C. The rezone is warranted in order to achieve consistency with the
4 Comprehensive Plan or because of a need for additional property in the proposed
5 district land use classification or because the proposed zoning classification is
appropriate for reasonable development of the subject property; and
6 D. The rezone will not be materially detrimental to uses or property in the
immediate vicinity of the subject property; and
7 E. The rezone has merit and value for the community as a whole.

8 5. The Director's Recommendation has done a thorough analysis documenting
9 how the proposal meets these requirements for rezone approval. The Hearing Examiner
10 incorporates the discussion contained in Exhibit C-1 at 8-11 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
contemplated by the Washington State Growth Management Act, chapter 36.70A RCW;

14 B. The rezone will bear a substantial relation to the public health, safety, and welfare
15 because development consistent with the OLB-2 zoning district will implement the
16 comprehensive plan vision for the Eastgate Subarea, promote pedestrian circulation, and
encourage use of public transit;

17 C. The City Council has already determined that this parcel, which is part of the
18 Eastgate Subarea, should be designated Office Limited Business (OLB), in Ordinance No.
19 6393. This rezone will simply update the zoning classification to make the zoning consistent
20 with the Council's 2017 Comprehensive Plan designation;

21 D. There is no evidence in the record suggesting the rezone will be materially
22 detrimental to uses or property in the immediate vicinity of the subject property; to the contrary,
the evidence in the record indicates that the adjacent parcel to the west is zoned OLB-2 and
23

1 development as a result of the proposed rezone would implement the vision for the Eastgate
2 Subarea; and

3 E. The rezone has merit to the community as a whole, in that it furthers the goals of
4 the Growth Management Act found at RCW 36.70A.020, including but not limited to: Goal 1,
5 which encourages urban growth in urban areas where services are available; Goal 2, which
6 encourages communities to reduce sprawl; Goal 3, which encourages efficient multimodal
7 transportation systems; and Goal 5, which promotes economic development.

8 6. Based on the evidence in the record, the Applicant has met its burden to show
9 that the rezone application should be approved.

10 7. The Department has complied with the State Environmental Policy Act.

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

12 **RECOMMENDATION**

13 The Hearing Examiner **RECOMMENDS APPROVAL** of the rezone to the Bellevue
14 City Council with the following condition:

15 Approval of this rezone does not constitute an approval of any Land Use Code
16 amendments, Land Use Entitlement review, or any other ancillary permits that may
17 be required for the design and construction of any proposed development on the
18 rezone state.

19 **SO ORDERED**, this 13th day of April, 2023.

20 

21 Barbara Dykes Ehrlichman
22 Barbara Dykes Ehrlichman
23 Hearing Examiner

24 **CITY COUNCIL CONSIDERATION AND FINAL DECISION**

25 This matter has tentatively been scheduled to go before the City Council pursuant to LUC
26 20.35.355 on **Monday, May 8 at 6:00 pm** for consideration, and **Monday, May 22 at 6:00 pm**
27 for final decision. The decision of the City Council on this application is the final decision of the
28 City and may be appealed to Superior Court as provided in LUC 20.35.070.