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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application of)
)
Alamo Manhattan Properties, LLC)
)
For a Rezone from Office (O) and R-30)
split zone to Downtown Mixed Use)
(DNTN-MU)for a parcel at 120 106th)
Avenue SE, Bellevue.)
)

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

FILE NO. 15-120842-LQ

SUMMARY

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

Proposal. Alamo Manhattan Properties, LLC, seeks a Rezone of a .19-acre parcel at 120 106th Avenue SE from Office (O) and R-30 (residential-multifamily high) zoning designations to Downtown Mixed Use (DNTN-MU) to allow coordinated development of the site under the requested designation.

On August 3, 2015, the Bellevue City Council approved a Comprehensive Plan Amendment (File 12-127970 AC) to change the land use designation of this site from Office (O) and Residential-Multifamily High R-30 to Downtown Mixed Use (DNTN-MU), thus making the requested rezone possible. The Comprehensive Plan Amendment updated the southern downtown boundary line to make it more regular and the parcel at issue became part of the Downtown subarea.

An accompanying Comprehensive Plan Amendment (File 15-123469), now under review by the Bellevue Planning Commission, updated the legal description and downtown map to support the proposed rezone.

The City Development Services Department recommended that, as a condition of approval, this rezone not be enacted into law until the above Amendment is passed and the accompanying ordinance is approved.

1 The City Council did not specify any conditions of approval for the Comprehensive Plan
2 Amendment (See Exhibit 1, Staff Report, Attachment 1—Ordinance 6251).

3 **Procedure.** The Applicant, Alamo Manhattan, filed for a rezone from Office (O) and R-
4 30 designation to Downtown Mixed Use (DNTN-MU) for the parcel at issue on August 13,
5 2015. Notice of Application was published on October 29, 2015. Mailing, posting and
6 publication of the application were appropriately accomplished.

7 A public meeting was held on November 12, 2015. Four citizens attended the public
8 meeting and they were provided information about the rezone process. One citizen requested
9 information about the rezone process by email, and raised no other questions. In this process, the
10 City received no substantive comments on the proposal from members of the public (Staff
11 Report, Exhibit 1).

12 The Development Services Department issued a Determination of Non-Significance
13 (DNS) under the State Environment Policy Act on February 12, 2015, upon finding that the
14 proposal at issue would not have any probable significant adverse impact on the environment
15 (Staff Report, Exhibit 1). The DNS was not appealed.

16 The City issued a staff report and a recommendation for approval of the proposed rezone
17 on December 17, 2015 (Staff Report, Exhibit 1).

18 Upon due notice, the undersigned Hearing Examiner held a hearing in the Bellevue City
19 Council Chambers on January 7, 2015. Elizabeth Stead, Urban Design Planning Manager, City
20 of Bellevue, presented a staff report and testified on behalf of the City. Ms. Anna Nelson of Van
21 Ness Feldman LLP appeared on behalf of Alamo Manhattan and presented a brief statement in
22 support of the proposal and also noted her agreement with the City's position. No public
23 testimony was offered. Hearing Office Manager Sara Gollersrud was also present at the hearing.

24 The City's Staff Report with accompanying file materials was admitted into evidence as
25 Exhibit 1, and a paper copy of the City's Power Point presentation was admitted as Exhibit 2.

26 The undersigned Examiner visited the site at issue.

27 **FINDINGS OF FACT**

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

30 2. The Applicant, Alamo Manhattan Properties, LLC, requests rezone for the split-zoned

1 site at issue. The proposed rezone from Office (O) and Residential-Multifamily High (R-30) to
2 Downtown Mixed Use (DNTN-MU) will rectify the split zoning and create consistency with the
3 Comprehensive Plan as well as the proposed southern boundary of downtown Bellevue.

4 3. The subject parcel has an area of .19 acres or 8,161 square feet (*See Staff Report,*
5 *Exhibit 1*). The site currently has only a gravel parking lot and no structures. The site has some
6 steep slopes with a high point at the southern boundary.

7 4. The sites around the parcel at issue are zoned Downtown-Mixed Use to the north and
8 R-30 to the south, east and west.

9 5. The Development Services Department issued a Determination of Non-Significance
10 (DNS) under the State Environment Policy Act (SEPA) on February 12, 2015, upon finding that
11 the proposal at issue would not have a probable, significant adverse impact on the environment
12 (*Staff Report, Exhibit 1*).

13 6. The Bellevue City Council on August 3, 2015, approved the Comprehensive Plan
14 amendment and the SEPA review completed with it, and the Council changed the designation of
15 the site at issue to Downtown Mixed Use.

16 7. If the rezone is approved, any future development for the site will be subject to project-
17 specific review and other required approvals under the Bellevue City Code. The proponent's
18 Design Review application for construction of 160 residential units on the site is currently
19 pending.

20 8. The proposed rezone meets all applicable rezone requirements, as the City's Managing
21 Land Use Planner Elizabeth Stead testified credibly and as explained in the Staff Report (*Exhibit*
22 *1*).

23 9. The technical staff of the City's Utilities Department indicated that further analysis of
24 water, sewer and drainage needs for the proposed rezone may be needed depending on project or
25 development proposals (*Staff Report*).

26 10. The City's Transportation Department analyzed the parcel at issue and indicated that
27 further review and planning for mitigation of traffic changes would depend on proposed future
28 development (*Staff Report*). A complete analysis shall occur in response to any future
29 development application.

30 11. The proposed rezone is consistent with the Comprehensive Plan. The parcel at issue

1 rests within the downtown subarea. The rezone is consistent also with Land Use Elements
2 regarding planning, growth, and density (See Policies LU-1; LU-4; and Staff Report p. 10,
3 Exhibit 1).

4 The rezone will permit higher density to accommodate the applicant's proposal for
5 creating housing units. The rezone also will advance economic development by making possible
6 a range of housing options for the City's growing workforce (Policy ED-16) .

7 12. Rezone of the site to will allow mixed use projects in this portion of the downtown
8 subarea consistent with the current Land Use Code and planning under the Growth Management
9 Act, Vision 2040, and King County Countywide Planning Policies. The contemplated use for
10 additional living units is also consistent with downtown subarea policies (Policies S-DT-2 and S-
11 DT-25) to promote a range of downtown urban residential uses and densities.

12 13. The proposed rezone advances the public welfare by encouraging residential
13 development on the site.

14 14. The proposed rezone is compatible and consistent with the uses in the surrounding
15 area and will not be materially detrimental to uses on the subject property or its environs. In
16 addition, the rezone provides consistency between the Comprehensive Plan and the land use map
17 designation and zoning designation.

18 15. The proposed rezone has merit for the whole community because it allows
19 appropriate use, consistent with the Comprehensive Plan and land use policies, for the downtown
20 subarea.

21 16. The proposed rezone allows the site at issue to meet the changing needs of the City by
22 expanding uses and redevelopment potential for the site.

23 17. The Staff Report thoroughly analyzes the rezoning proposal in light of the land use
24 criteria under LUC 20.30A.140, and finds that the rezone will be consistent with that ordinance.
25 Basically, as the City's Land Use Division found: the rezone proposal is consistent with the
26 Comprehensive Plan; the rezone is warranted to achieve consistency with the updated
27 Comprehensive Plan and the Land Use Code; the rezone promotes public welfare by aligning the
28 standards governing the subject property with current law and policies; the rezone is compatible
29 with the surrounding area; the rezone presents no materially detrimental uses in the immediate
30 vicinity of the site; and the rezone has "merit and value for the community as a whole" by
permitting the site to meet changing community needs.

1/22/2016

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

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

4 **CONCLUSIONS OF LAW**

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

9 2. The proposed rezone is consistent with the decision criteria of LUC 20.30A.140 in
10 that it complies with the Comprehensive Plan under LUC 20.30A.140A, and meets the other
11 criteria including providing "value for the community as a whole" under LUC 20.30A.140E.
12 Each provision under LUC 20.30A.140 was carefully analyzed in the City's Staff Report and the
13 conclusions in that report are incorporated by reference in this recommendation.

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

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

18 5. The requested rezone of the site at issue to zoning designation Downtown Mixed Use
19 (DNTN-MU) should be approved.

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


21 **CONDITION**

22 The rezone approval shall be conditioned on the approval by ordinance of the Land Use
23 Code Amendment at File 15-123469 including the revised legal description and map of the
24 Downtown subarea consistent with the attachments provided in this rezone (See Exhibit 1).
25

26 **RECOMMENDATION**

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

29 DONE this 22nd day of January 2016.

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Robin Lindley, Hearing Examiner

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NOTICE OF RIGHT TO APPEAL

RIGHT TO APPEAL-TIME LIMIT

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

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

WAIVER OF TRANSCRIPTION FEE

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

CITY COUNCIL CONSIDERATION

Unless appealed, this matter has tentatively been schedule to go before the City Council on **Monday, March 7, 2016** for discussion, and **Monday, March 21, 2016** for legislation. After **February 5, 2016**, interested persons may contact the Hearing Examiner's Office at (425) 452-6934 to find out whether an appeal has been filed.