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**BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE**

In the Matter of the Application regarding )	
<b>Radford Building</b> )	<b>FINDINGS OF FACT,</b>
For a Rezone from Office (O) )	<b>CONCLUSIONS OF LAW,</b>
to Downtown Mixed Use (DNTN-MU) )	<b>AND RECOMMENDATION</b>
for a parcel at 11 105 <sup>th</sup> Avenue SE, )	
Bellevue. )	<b>FILE NO. 15-120755-LQ</b>
)	

**SUMMARY**

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

**Proposal.** The Applicant, Tri Western Syndicated Investments LLC seeks (Contact: Colin Radford) requests a rezone of a .29-acre parcel—site of the Radford Building—at 11 105<sup>th</sup> Avenue SE, from Office (O) zoning designation 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) 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 AD), now under review by the Bellevue Planning Commission, updated the legal description and downtown map to support the proposed rezone.

The requested rezone will align the Comprehensive Plan designation and the subarea map and zoning designation for the site. The City Development Services Department recommended

1 that, as a condition of approval, this rezone not be enacted into law until the above Amendment  
2 is passed and the accompanying ordinance is approved.

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

5 **Procedure.** The Applicant filed for a rezone from Office (O) to Downtown Mixed Use  
6 (DNTN-MU) for the parcel at issue on August 12, 2015. Notice of Application was published on  
7 October 29, 2015. Mailing, posting and publication of the application were appropriately  
8 accomplished.

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

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

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

20 Upon due notice, the undersigned Hearing Examiner held a hearing in the Bellevue City  
21 Council Chambers on January 7, 2015. Elizabeth Stead, Urban Design Planning Manager, City  
22 of Bellevue, presented a staff report and testified on behalf of the City. No one appeared on  
23 behalf of the applicant and no public testimony was offered. Hearing Office Manager Sara  
24 Gollersrud was also present and recorded the hearing.

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

27 The undersigned Examiner visited the site at issue.  
28

### 29 FINDINGS OF FACT

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

1/22/2016

1           2. The Applicant requests rezone for the site at issue. The proposed rezone from Office  
2 (O) to Downtown Mixed Use (DNTN-MU) will align the site with the Comprehensive Plan as  
3 well as the proposed southern boundary of downtown Bellevue.

4           3. The subject parcel has an area of .29 acres (*See Staff Report, Exhibit 1*). The Radford  
5 Building, a one-story wood-frame office building of about 6,296 gross square feet, with exterior  
6 parking, currently occupies the site. A variety of small commercial businesses operate at the  
7 building. The building partly occupies the site at issue and straddles a property line with the  
8 adjacent parcel at 10423 Main Street, currently zoned Downtown Mixed Use. The site slopes  
9 with highest point at the southeast corner with a drop of about 30 feet to the northwest corner.

10           4. The sites around the parcel at issue are zoned Downtown-Mixed Use to the north and  
11 west, Office to the south, and R-30 (Residential High Density) to the east.

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

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

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

21           8. The proposed rezone meets all applicable rezone requirements, as the City's Managing  
22 Land Use Planner Elizabeth Stead testified credibly and as explained in the Staff Report (*Exhibit*  
23 *1*).

24           9. The technical staff of the City's Utilities Department indicated that further analysis of  
25 water, sewer and drainage needs for the proposed rezone shall occur in response to project or  
26 development proposals (*Staff Report*). The analysis noted that this area will not require  
27 significant improvements in view of existing infrastructure.

28           10. The City's Transportation Department analyzed the parcel at issue and indicated that  
29 a complete analysis will occur in response to any future development application.  
30

1 11. The proposed rezone is consistent with the Comprehensive Plan. The parcel at issue  
2 rests within the downtown subarea. The rezone is consistent also with Land Use Policy Elements  
3 regarding planning, growth, and density (See Policy LU-4; and Staff Report p. 6, Exhibit 1).

4 12. The rezone will allow for higher residential density than the Office designation and  
5 will advance economic development by making possible a range of use options for the City's  
6 growing population (Policy ED-16).

7 13. Rezone of the site will allow mixed-use projects on this parcel of the downtown  
8 subarea consistent with the current Land Use Code and planning under the Growth Management  
9 Act. The rezone also will allow coordinated development with the adjoining parcel already zoned  
10 Downtown Mixed Use and make possible high quality construction on the two parcels (Policies  
11 S-DT-15). Standards for both parcels will then be uniform and, is consistent with downtown  
12 subarea policies, the rezone will promote a range of downtown urban residential uses and  
13 densities.

14 14. The proposed rezone advances the public welfare by encouraging expanded, mixed-  
15 use development on the site and allowing reasonable development consistent with the  
16 Comprehensive Plan and Amendments noted above.

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

21 16. The proposed rezone has merit for the whole community because it allows  
22 appropriate use, consistent with the Comprehensive Plan and land use policies, for the downtown  
23 subarea. The proposed rezone allows the site at issue to meet the changing needs of the City by  
24 expanding uses and redevelopment potential for the site, including providing more residential  
25 potential. Any new development in the area will require review under the Design Review  
26 Process.

27 17. The Staff Report thoroughly analyzes the rezoning proposal in light of the land use  
28 criteria under LUC 20.30A.140, and finds that the rezone will be consistent with that ordinance.  
29 Basically, as the City's Land Use Division found: the rezone proposal is consistent with the  
30 Comprehensive Plan; the rezone is warranted to achieve consistency with the updated

1 Comprehensive Plan and the Land Use Code; the rezone promotes public welfare by aligning the  
2 standards governing the subject property with current law and policies; the rezone is compatible  
3 with the surrounding area; the rezone presents no materially detrimental uses in the immediate  
4 vicinity of the site; and the rezone has “merit and value for the community as a whole” by  
5 permitting the site to meet changing community needs.

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

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

9  
10 **CONCLUSIONS OF LAW**

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

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

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

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

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

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

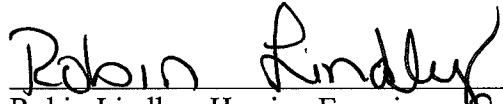
27 **CONDITION**

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

1 **RECOMMENDATION**

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

4  
5 DONE this 22<sup>nd</sup> day of January 2016.

6   
7 \_\_\_\_\_  
8 Robin Lindley, Hearing Examiner  
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11 **NOTICE OF RIGHT TO APPEAL**

12  
13 **RIGHT TO APPEAL-TIME LIMIT**

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

20  
21 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

22 An appeal of the Hearing Examiner's decision requires the preparation of a transcript of  
23 the hearing before the Hearing Examiner. Therefore, the request for appeal must be  
24 accompanied by an initial deposit of \$100. Should the actual cost be less the amount of the  
25 deposit, any credit due shall be reimbursed to the appellant. Should the cost for transcript  
26 preparation be more than the deposit, the appellant will be additionally charged.

27 **WAIVER OF TRANSCRIPTION FEE**

28 Upon request, the City Clerk will waive transcription fees upon submission by an  
29 appellant of the following documentation: a) an affidavit stating that the appellant's net financial  
30 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.