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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3698

AN ORDINANCE reclassifying approximately 2.8 acres of property in the City of Bellevue at the northerly intersection of Northup Way N.E. and 112th Avenue N.E. designated as Site 9 of the North Bellevue Subarea Rezones, on application of the City of Bellevue; sustaining the appeal of the appellants; and entering findings of fact and conclusions of the City Council.

WHEREAS, the applicant City of Bellevue filed an application for reclassification of approximately 2.8 acres of property from LI to OLB, which property is located at the northerly intersection of Northup Way N.E. and 112th Avenue N.E., designated as Site 9 of the North Bellevue Subarea Rezones, as more particularly described hereafter; and

WHEREAS, on January 18, 1985, a public hearing was held thereon before the Hearing Examiner upon proper notice to all interested persons; and

WHEREAS, on January 30, 1986, the Hearing Examiner denied the application of the City of Bellevue for a reclassification of said property from LI to OLB; and

WHEREAS, on February 10, 1986, the City of Bellevue Planning Department requested reconsideration of the denial of the proposed rezone; and

WHEREAS, on February 10, 1986, Richard L. Rome filed a response to the Planning Department's request for reconsideration of the denial of the application after which the request was denied by the Hearing Examiner; and

WHEREAS, on February 18, 1986, the Planning Department of the City of Bellevue filed an appeal of the Hearing Examiner's denial of the application dated January 30, 1986; and

WHEREAS, on June 9, 1986, a limited public hearing was held on said appeal by the City Council, on proper notice; and

WHEREAS, the City Council has determined that the appeal should be sustained and the reclassification granted, and desires to enter findings of fact and conclusions with regard thereto; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the City Environmental Procedures Ordinance; now, therefore,

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THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts findings of fact numbers 1, 2, 3, 4, and 5 entered by the Hearing Examiner in his decision to deny the application of the City of Bellevue to reclassify the hereinafter described property from LI to OLB as contained in "Findings and Decision of the Hearing Examiner for the City of Bellevue in the Matter of the Application of City of Bellevue for a Reclassification of Property Identified as Site 9 Implementing the North Bellevue Subarea Element of Bellevue's Comprehensive Plan, File No. HE-A 84-2." The City Council does not adopt any other findings of fact or conclusions of the Hearing Examiner and instead makes the following additional findings of fact:

1. Site 9 consists of 2.8 acres at the northerly intersection of Northup Way N.E. and 112th Avenue N.E. The site is undeveloped. The site averages approximately 13% in slope with some portions over 40%. Heavy vegetation exists on the site, and a 300-foot ravine extends from west to east along the northerly portion of the site which is designated wetland area 8F (Deer Ravine), in which lies a stream. The stream has been culverted at the north and east boundaries of the property. The 300-foot ravine and heavy vegetation separate the site physically from the adjacent property to the north. The site is a triangular parcel of land fronted by Northup Way N.E. on the south and west and 112th Avenue N.E. on the east (112th Avenue N.E. has been tentatively approved for vacation by the City Council). The site is oriented to Northup Way N.E. and 112th Avenue N.E.

2. The easterly abutting property, designated OLB under the North Bellevue Subarea Land Use Diagram, is zoned OLB and is currently being developed as commercial office. The property abutting to the west and southwest is designated OLB under the North Bellevue Subarea Plan and is zoned OLB and developed in office. The property abutting to the north is physically separated from the developable portion of Site 9 by the 300-foot ravine and is developed as LI. Site 9 is, therefore, a peninsula of LI zoned property extending into and surrounded on all sides except the north by OLB zoned properties.

3. The City of Bellevue Land Use Probability Map adopted in 1977 designates Site 9 as OLB.

4. By Resolution No. 4206 passed on July 5, 1983, the City Council adopted the North Bellevue Subarea Element of the Comprehensive Plan. The North Bellevue Subarea Element was adopted following public hearings by the Planning Commission and the submittal of recommendations by the City Planning Department and a City Advisory Committee. The North Bellevue Subarea Land Use Diagram, adopted as part of the North Bellevue Subarea Element of the Comprehensive Plan, designates Site 9 and all adjoining property except the northerly adjoining property as OLB.

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5. This reclassification application was filed in order to implement the provisions of the North Bellevue Subarea Element of the Comprehensive Plan and to recognize the changed circumstances in the area which have occurred since the subject property was classified Light Industrial (LI) in the early 1960's, as set forth below.

6. Except for the northerly adjacent property, all other properties surrounding the site are developed under OLB standards and limited to OLB uses. This development has mostly occurred recently, since the existing LI zoning was placed on the subject parcel. Policy 21.V.10.435 of the North Bellevue Subarea Plan provides for administrative design review as a condition of any rezone to any office, retail or multi-family residential land use district and to incorporate site specific design and review criteria into any condition to ensure that development is compatible with its neighborhood and that it conforms to the policies of the Comprehensive Plan.

7. Policy 21.V.10.030 of the North Bellevue Subarea Plan provides direction to "limit all future retail and commercial (which excludes office) development to areas presently established as retail and commercial centers." This area is not presently established as a retail and commercial center, and since the OLB zone allows fewer manufacturing and retail types of uses than LI, OLB is a less intense and therefore more appropriate usage of the subject property and is consistent with the policies of the North Bellevue Subarea Plan.

8. Office use is permitted in either LI or OLB zones. Setback requirements are different; however, Land Use Code (LUC) 20.25C.030 allows for diminished setbacks in the OLB district on properties which are irregularly shaped such as the subject parcel, and would allow development of an office building of substantially equal square footage, given the floor area ratio limitations on the site due to its shape, regardless of whether zoning is LI or OLB.

9. The sensitive nature of the northerly portion of the site, consisting of extremely steep slopes, a wetland, and an open stream channel, seriously constraint development of the parcel. The only development achievable on the site is limited to the southerly portion of the property. Administrative design review is necessary to ensure that development adequately addresses the natural constraints of the parcel. Such design review is not required by LI zoning, and is required by OLB zoning.

10. The classified street setback from Northup Way N.E., the required setback from 112th Avenue N.E., and the requirement that any development avoid the steep slopes in the northerly ravine area, severely constrain development of the site under LI zoning. Under OLB zoning, a floor of parking can be placed at ground level under the building, which permits an additional floor of office above the existing

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height limit of 45 feet. This is not true of LI zoning. As a result of this feature of OLB zoning, as well as the ability of the property owner under LUC 20.25C.030 to modify setbacks in OLB zones on irregularly shaped sites such as this, and also as a result of the constraints on development of the site under LI due to floor area ratio, approximately the same size office building can be placed on the site under OLB zoning as under LI zoning. However, due to the under-building parking at ground level attainable in OLB zones, substantially less of the site will be impacted adversely by impervious surface and substantially less of the site's natural features will be destroyed by development under OLB zoning.

11. In 1981 the City Council adopted text amendments to the City's Land Use Code and reclassified property, both of which implemented the 1979 Central Business District (CBD) Subarea Plan. Those changes were predicated on that Plan's purpose of concentrating high intensity office in the CBD, and discouraging such development outside the CBD. Development of this property in office under LI zoning would be contrary to and would undermine that purpose and the policies of that portion of the Comprehensive Plan.

12. There is a surplus of undeveloped LI zoned land in the City. There is a smaller amount of undeveloped OLB zoned land available for development in the City.

13. Many of the uses authorized under LI are more intense uses of the property and would have a greater burden on City streets and other facilities. Northup Way N.E. adjacent to the site is a two lane road and would be seriously burdened by potential LI development of the property. OLB zoning would limit average daily trips to a level more consistent with the capacity of this two lane road.

14. Although the property owner has professed an intention to develop the property as office, no building permit application has been filed for such a development, despite the fact that this reclassification application has been pending for almost two years. There are no assurances that the owner, or any successor, would not change plans and develop the property with other LI uses, which would not be appropriate for the site, given its location, characteristics, and the pattern of surrounding development. Development of the property with LI uses and to LI standards would seriously adversely impact the site, the immediate vicinity, and the community as a whole.

Section 2. The City Council hereby enters the following conclusions:

1. The application for OLB zoning meets the applicable decision criteria of former Section 20.30.845 and present Section 20.30A.140 of the Land Use Code. It bears a substantial relationship to

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the public health, safety and welfare; there is a need for additional property in OLB zoning; circumstances have changed; the property is suitable for development under OLB zoning; the reclassification will not be materially detrimental to uses on property in the immediate vicinity; the reclassification has merit and value for the community as a whole; it is in accord with the Comprehensive Plan; and it complies with all other applicable criteria and standards of the Bellevue City Code.

2. Approval of the application implements the North Bellevue Subarea Plan by reclassifying the property consistent with the North Bellevue Subarea Land Use Diagram.

3. Reclassification of the property from LI to OLB restricts the intensity of development and use of the property consistent with the policies and goals of the Comprehensive Plan. Reclassification to OLB will minimize adverse impacts on adjacent Northup Way N.E.

4. Reclassification of the property to LI is consistent with the zoning on the easterly, southerly and westerly adjoining properties and with the current development of said properties; and development under OLB will be consistent with the physical features of the land which require that development occur in a way that best preserves and recognizes the sensitive nature of the site.

5. Failure to reclassify the property to OLB would leave an island of developable LI property physically separated from the only adjacent LI zoned property to the north and physically oriented to and surrounded by OLB zoned and developed property to the east, south and west.

6. Administrative Design Review should be required for the subject property to ensure that development occurs in a way that is consistent with the policies of the North Bellevue Subarea Plan and the physically sensitive nature of the site.

7. Changed circumstances since the existing LI zoning was placed on the land have been shown by development of the adjacent properties to OLB uses consistent with OLB standards; by adoption of the Central Business District Subarea Plan and zoning changes and the North Bellevue Subarea Plan and its designation of the property as OLB; and by the adoption of City policies and regulations limiting development in sensitive areas. It is appropriate to place conditions on the reclassification to protect the natural features on the site, including the ravine and associated slope areas in addition to the creek and other wetland areas on the property. OLB zoning, with design review, will better foster these objectives.

Section 3. The City Council hereby finds and concludes that the

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Hearing Examiner's denial of the proposed reclassification was substantially in error, and that the denial was unsupported by material and substantial evidence in view of the record as submitted. The appeal of the appellant, the City of Bellevue, is therefore sustained.

Section 4. The following described property is hereby reclassified from LI to OLB with conditions:

That portion of the northwest quarter of the southeast quarter of Section 20, Township 25 North, Range 5 East, W.M. in King County, Washington, lying northeasterly of the centerline of Northup Way.

provided that this rezone is subject to the following conditions:

1. Development of the site shall be subject to Administrative Design Review. Review shall include but not be limited to landscaping, building design, access and circulation.
2. No disturbance, clearing, or any other construction activities shall be allowed in the ravine area. Prior to the issuance of any permits, the applicant shall stake in the field the extent and edges of the ravine and associated slope areas taking into consideration the issues of the existing vegetation, slope stability, and the integrity of the natural ravine. This line shall be reviewed and approved by the Planning Department and Storm and Surface Water Utility Department. This line shall be surveyed and shown on all applicable permit drawings.
3. Prior to the issuance of any permits, an engineering soils report shall be prepared by a registered civil engineer experienced and qualified in the field of soils engineering and shall be submitted to the Storm and Surface Water Utility at the time of application for a Clearing and Grading Permit. At a minimum, the soils report shall include:
 - a. An inventory and analysis of existing site conditions including soil types, stratification and stability, groundwater conditions, and any special conditions of note; and
 - b. Design recommendations for foundations, roads, and utilities.
4. Prior to issuance of a development permit for the property, improvement of the Northup Way N.E. frontage to Public Works Standards (curb, gutter, sidewalk, street lighting, drainage, paving and associated appurtenances) shall be provided for, either by an agreement to construct those improvements entered into by the owner, or by successful formation of a local improvement district. If the Northup

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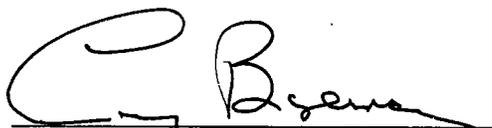
Way N.E. C.I.P. improvement is approved, the owner shall agree not to protest a local improvement district for that project.

5. The owner shall improve 112th Avenue N.E. to Public Works Department Standards (curb, gutter, sidewalk, street lighting, storm drainage, paving, etc.). A 30-foot right of way dedication will be required from the owner for such street, to meet Public Works Department Standards for a 60-foot right of way.

Section 5. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 4th day of August, 1986, and signed in authentication of its passage this 4th day of August, 1986.

(SEAL)



Cary E. Bozeman, Mayor

Approved as to form:



Richard L. Andrews, City Attorney

Attest:



Marie K. O'Connell, City Clerk

Published August 10, 1986