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10/07/93

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4586

AN ORDINANCE reclassifying approximately 19.74 acres of property located west of 164th Way S.E., south of S.E. 48th Street, east of 159th Place S.E., and generally north of Lakemont Boulevard S.E. in the Newcastle Subarea, commonly referred to as the KDG/Seattle Partners One rezone, from R-3.5/C to R-5/C; sustaining the appeals of appellants; entering findings of fact and conclusions; and remanding the preliminary plat and conditional use applications to the Hearing Examiner for further action.

WHEREAS, Larry Calvin/Triad Associates, filed an application on behalf of KDG/Seattle Partners One, Ltd., the owner of approximately 19.74 acres of property located west of 164th Way S.E., south of S.E. 48th Street, east of 159th Place S.E., and generally north of Lakemont Boulevard S.E., in the Newcastle Subarea, for a reclassification of said property from R-3.5/C to R-5/C (REZ 91-8343); and

WHEREAS, the owner of said property also submitted applications for a preliminary plat approval (PP 91-8342) and for a conditional use approval (CUDN 92-9746); and

WHEREAS, on June 23 and 24, 1993, a consolidated public hearing was held on the reclassification, preliminary plat and conditional use applications before the Hearing Examiner for the City of Bellevue pursuant to notice as required by law; and

WHEREAS, on July 16, 1993, the Hearing Examiner issued a recommendation on the consolidated applications, recommending that the applications be denied, and made and entered findings of fact and conclusions based thereon in support of his recommendation; and

WHEREAS, on August 5, 1993, the owner of the property, KDG/Seattle Partners One, Ltd., filed an appeal of the recommendation of the Hearing Examiner to the City Council; and

WHEREAS, on August 5, 1993, Charles D. Mosher, Jan Hajnosh and Larry Brickman filed an appeal of the recommendation of the Hearing Examiner to the City Council; and

WHEREAS, a limited public hearing was held on the appeals before the City Council on September 13, 1993; and

WHEREAS, the City Council finds that the appellants have, pursuant to LUC 20.35.150.E.4, carried the burden of proof and produced evidence sufficient to support the conclusion that the appeal be granted, except with regard to the owner's request that the number of on-site affordable housing units be limited to nine units instead of the ten units recommended by the Planning Department; and

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WHEREAS, the City Council finds that the recommendation of the Hearing Examiner is not supported by the preponderance of the evidence; and

WHEREAS, the City Council has determined that the appeal of the owner and the appeals of Charles D. Mosher, Jan Hajnosh and Larry Brickman should be sustained, except that the City Council does not approve the owner's request that the number of on-site affordable housing units be limited to nine units instead of the ten units recommended by the Planning Department, and concludes that the property should be reclassified from R-3.5/C to R-5/C consistent with the Staff Report recommending reclassification to R-5/C and desires to enter findings of fact and conclusions with regard thereto; and

WHEREAS, it is necessary to remand the preliminary plat and conditional use applications to the Hearing Examiner for further consideration, on the record, consistent with the City Council's action approving the reclassification application; and

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

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

Section 1. The City Council rejects the findings of fact, conclusions based thereon and the recommendation made and entered by the Hearing Examiner with regard to the reclassification request for the hereinafter described property located west of 164th Way S.E., south of S.E. 48th Street, east of 159th Place S.E., and generally north of Lakemont Boulevard S.E., set forth in "Findings, Conclusions and Recommendation of the Hearing Examiner for the City of Bellevue in the Matter of the Applications of KDG/Seattle Partners One, Ltd. For Reclassification from R-3.5/C to R-5/C With Respect to Property Generally Located at 4825 164th Avenue S.E.; Consolidated With Preliminary Plat Approval and for a Conditional Use With Respect to Property Generally Located at 4825 164th Avenue S.E.", File No. REZ 91-8343 and File Nos. PP 91-8342 and CUDN 92-9746, and instead adopts the findings of fact and conclusions based thereon set forth in the Staff Report and Recommendation of the Planning Department submitted to the Hearing Examiner for the June 23 and 24, 1993 hearing and in addition adopts the following finding and conclusion:

All traffic-related issues raised at the hearing are more appropriately dealt with in the preliminary plat process.

Section 2. The following described property (comprised of seven parcels) located west of 164th Way S.E., south of S.E. 48th Street, east of 159th Place S.E., and generally north of Lakemont Boulevard S.E. is hereby reclassified from R-3.5/C to R-5/C subject to the conditions that follow:

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PARCEL A:

THE NORTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, LESS EAST 264 FEET OF THE SOUTH HALF IN SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;  
LESS COAL AND MINERAL RIGHTS;  
LESS COUNTY ROAD

PARCEL B:

THE SOUTH HALF OF THE EAST 264 FEET OF NORTH HALF OF NORTH HALF OF NORTHEAST QUARTER OF NORTHEAST QUARTER IN SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;  
LESS COAL AND MINERAL RIGHTS, LESS COUNTY ROAD.

BOTH SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

AND

PARCEL A:

THE WEST 264 FEET OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL B:

THE EAST 264 FEET OF THE WEST 528 FEET OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL C:

THE EAST 264 FEET OF THE WEST 792 FEET OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL D:

THE EAST 264 FEET OF THE WEST 1056 FEET OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL E:

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THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER;  
EXCEPT THE WEST 1056 FEET THEREOF;  
AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE COUNTY ROAD VARIOUSLY KNOWN AS 164TH AVENUE SOUTHEAST AND NEWCASTLE ROAD, ALL IN SECTION 23, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., RECORDS OF KING COUNTY, WASHINGTON.

This reclassification is subject to the following conditions:

1. The maximum density permitted is 3.1 units per acre.
2. In the event the property is developed with ten housing units or more, at least ten percent (10%) of the units buildable under the original maximum density of R-3.5/C shall be affordable units and at least thirty percent (30%) of the units buildable as a result of the increase in density from the original maximum density to the total number of approved units shall be affordable units. One bonus market rate unit is permitted for each of the affordable units provided to meet the minimum ten percent (10%) requirement of the original maximum density, up to fifteen percent (15%) above the original maximum density. "Affordable units" shall be defined as set forth in LUC 20.50.010.

For the purpose of calculating the number of required affordable units, the original maximum density possible under the R-3.5/C zoning for the property is 19 units. The units shall remain "affordable units" for the lifetime of the R-5/C zoning classification and shall be dispersed across the range of unit sizes.

In consideration of the increased density that the City will allow, at a minimum the provision of the first ten required affordable units is required to occur on-site. The provisions of Section 20.20.128.E, Alternative Compliance Methods, shall not apply to the first ten required affordable housing units. The additional five affordable housing units shall be subject to Section 20.20.128.E and may be located off-site consistent with the provisions of that section.

Prior to issuance of a building permit, the owner shall sign any necessary agreements with the City to implement these affordable housing requirements. The City may agree, at its sole discretion, to subordinate any affordable housing regulatory agreement for the purpose of allowing the owner to obtain financing for development of the property, consistent with any applicable provisions of the Land Use Code in effect at the time of the issuance of the development permit(s).

3. The property owner shall apply for a Comprehensive Plan amendment by February 28, 1994, to amend the Comprehensive Plan designation to be

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consistent with the zoning designation approved by this ordinance, if the City has not initiated the Newcastle Subarea Study by that date.

- 4. This reclassification is further conditioned on full compliance by the owner of said property and its heirs, assigns, grantees or successors in interest, of the terms and conditions of that certain Concomitant Agreement executed by the owner of said property, which has been given Clerk's Receiving No. 19644, and which has been adopted by reference into this ordinance as if it were fully set forth herein.

Section 3. The owner's applications for a preliminary plat approval and for a conditional use approval are hereby remanded to the Hearing Examiner for further review and recommendation consistent with the approval of the owner's reclassification request as set forth in this ordinance. The Hearing Examiner's review shall be limited to the record already created in this matter and no further hearing(s) shall be required unless the Hearing Examiner, in the exercise of his discretion, determines that the record needs to be supplemented. The Hearing Examiner is specifically directed on remand to consider all traffic-related issues raised at the hearing in the preliminary plat approval process.

Section 4. This Ordinance shall take effect and be in force five days after its passage and legal publication.

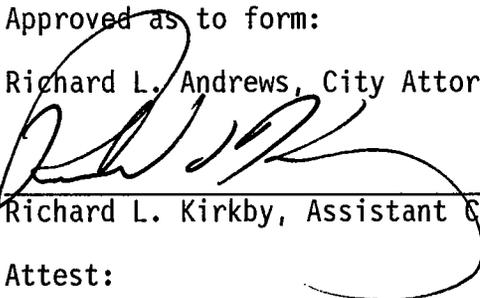
PASSED by the City Council this 11th day of October, 1993, and signed in authentication of its passage this 11th day of October, 1993.

(SEAL)

  
Cary Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
Richard L. Kirkby, Assistant City Attorney

Attest:

  
Myrna L. Basich, City Clerk

Published October 15, 1993