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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application for

Case File No.: 17-125912-LQ

The Flats Rezone

ORDER ON MOTION FOR CLARIFICATION

For a Rezone from Community Business (CB) to Multi-Family Residential (R-30) at 15516 NE 15th PL

On November 26, 2018 the Hearing Examiner issued a Recommendation to the Bellevue City Council in this matter, recommending approval of the rezone request with one condition. On November 30, 2018, the City of Bellevue Development Services Department (“DSD” or “Department”) filed a motion for clarification with respect to paragraph 10 of the Findings of Fact. No other party objects to the motion for clarification. DSD wishes to clarify a misstatement made in the finding that does not accurately reflect the Department’s position with respect to the effect of the rezone. The Hearing Examiner agrees it should be corrected and will revise Finding of Fact 10 as specified below.

ORDER

1. The Motion for Clarification is **GRANTED**. Finding of Fact 10 of the Hearing Examiner’s Recommendation dated November 26, 2018 is revised as appears below:

10. The Applicant and the Department disputed the assertion that the rezone will result in material detriment to the Ivar’s site. The Applicant asserts

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**CITY OF BELLEVUE
450 – 110th Avenue NE
P. O. Box 90012
Bellevue, WA 98009-9012**

1 several theories to argue that the claim of material detriment is unsupported and
2 speculative. Exhibit 3 at 3. First, since the application is for a rezone only, without
3 a development application, any effects from the rezone are speculative. Second,
4 the approval of the rezone does not trigger any change in use on the Ivar's site. The
5 new 30-foot setback would only apply if Kasar decided to redevelop the Ivar's site.
6 The Applicant cites LUC 20.25B.020.B.9, which states: "Where a transition area
7 abuts a single-family or multifamily district and all properties that would receive
8 the transition are developed with legally permitted nonresidential uses, the
9 requirements of this part shall not apply." *Id.* at 3-4. Applicant argues ~~and the~~
10 ~~Department confirms~~ that since the Ivar's site is developed as a parking lot in that
11 area, the rezone would not trigger the requirements of LUC Chapter 20.25B on the
12 Ivar's site. *Id.* at 4. It should be noted that the Department does not agree with the
13 Applicant's interpretation of LUC 20.25B.020.B.9; the Department takes the
14 position that the rezone, if approved, would trigger the requirements of LUC
15 20.25B, since the rezone property would be within the district receiving transition.
16 See LUC.20.25B.020.

17 2. This Order on Motion for Clarification and the changes to Finding of Fact 10 do not
18 materially alter the outcome of the Hearing Examiner's Recommendation to the City Council.
19 All future copies of the November 26, 2018 Recommendation on file in this case shall include
20 the amended Finding of Fact 10.
21

22 **SO ORDERED**, this 5th day of December, 2018.

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Barbara Dykes Ehrlichman
Hearing Examiner

NOTICE OF RIGHT TO APPEAL AND TIME LIMIT

(Pursuant to Resolution No. 9473)

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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 statement of the Findings of Fact or Conclusions of Law which are being appealed, and paying an appeal fee, if any, as established by ordinance or resolution, no later than 14 calendar days following the date that the recommendation was mailed. The appeal must be received by the City Clerk by **5:00 p.m. on Wednesday, December 19, 2018.**

CITY COUNCIL CONSIDERATION

Unless appealed, this matter has tentatively been scheduled to go before the City Council on **Monday, January 28, 2019 at 6:00 pm** for discussion, and **Tuesday, February 19, 2019 at 8:00 pm** for legislation. After **Wednesday, December 19, 2018**, interested persons may contact the Hearing Examiner’s Office at (425) 452-6934 to find out whether an appeal has been filed.

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AFFIDAVIT OF SERVICE

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

Karen Hohn, being first duly sworn upon oath, deposes and states:

In the Matter of The Flats @ 15th PL Rezone, on the 5th day of December, 2018, I served a copy of:

ORDER ON MOTION FOR CLARIFICATION

BY ELECTRONIC SERVICE – EMAIL by electronically mailing a true and correct copy thereof through the City of Bellevue’s electronic mail system to the email address(es) set forth below:

lchulsky@bellevuewa.gov

mmcfarland@bellevuewa.gov

Sidles@bnd-law.com

bricklin@bnd-law.com

brc@vnf.com

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Bellevue, Washington on this 5th day of December, 2018.

Karen Hohn

Karen Hohn
Hearing Examiner Program Coordinator

Subscribed and sworn this 5th day of December, 2018



Sarah Knox

Notary Public in and for the State of Washington

Residing at: Seattle

My appointment expires: 7/23/2020

Application, Petition or Case:

The Flats @ 15th PL—Rezone

File No.: 17-125912-LQ