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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application for

DSD File No.: 19-125909-LQ

EASTGATE OFFICE PARK REZONE

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

For a Rezone of Approximately 14.03
Acres Within the Eastgate Subarea from
Office (O) and Community Business (CB)
to Office Limited Business 2 (OLB 2)

SUMMARY

1. Recommendation. The Hearing Examiner recommends approval of the proposed rezone, subject to conditions.

2. Request. Kennedy Wilson Fund V-Eastgate LLC requests a rezone of 14.03 acres from Office (O) and Community Business (CB) to Office Limited Business 2 (OLB 2). The rezone would make the zoning consistent with a previously approved Comprehensive Plan Amendment which changed the Comprehensive Plan designation for the property from Office (O) and Community Business (CB) to Office Limited Business 2 (OLB 2).

3. Procedure. Notice of the application was published in the City of Bellevue weekly permit bulletin on November 21, 2019 and mailed to property owners within 500 feet

1/4/21

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1 of the project site. The City held a public meeting on December 3, 2019. Comments made
2 during the review process were considered. The City's responses are noted in the Staff Report.

3 4. The Hearing Examiner's public hearing was held via ZOOM conference on
4 December 17, 2020. At the hearing the City was represented by Drew Folsom, Associate
5 Land Use Planner. The Applicant was represented by Ian Morrison of McCullough Hill
6 Leary, PS. Harold Moniz, Senior Associate of Collins Woerman, and Mike Swenson,
7 Principal of Transpo Group testified for the Applicant. Two members of the public spoke –
8 one in favor and the other in opposition.

9 **FINDINGS OF FACT**

10 1. The factual matters set forth in the foregoing **SUMMARY** are adopted by the
11 Examiner as findings.

12 2. The applicant seeks a rezone of property within the Eastgate Subarea from Office
13 (O) and Community Business (CB) to Office Limited Business 2 (OLB 2) to make the zoning
14 consistent with a Comprehensive Plan Amendment approved on December 11, 2017
15 (Ordinance 6393). The amendment changed the Comprehensive Plan designation for the
16 property from Office (O) and Community Business (CB) to Office Limited Business 2 (OLB
17 2).

18 3. The rezone proposal is deemed within the scope the Comprehensive Plan
19 Amendment it implements and relies on the final threshold determination for that amendment
20 under the State Environmental Policy Act (SEPA) – namely a Determination of Non-
21 Significance (DNS).

22 4. The proposal is to rezone a single parcel located at 15325 SE 30th Place located
23 behind existing commercial development on 156th Avenue SE. A small portion of the site, at
24 its south end, is adjacent to SE Eastgate Way. The area to be rezoned is 14.03 acres in size.

5. The northern edge of the site borders a non-vehicular public pathway which is
adjacent to a residential neighborhood. To the west is property associated with the temple of
the Church of Jesus Christ of Latter-Day Saints and an auto dealership. Directly east are the

1/4/21

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1 Washington State Patrol District headquarters and office buildings. To the southeast are a
2 hotel and multiple retail uses.

3 6. There is a significant elevation difference between the proposed rezone area and
4 the adjacent residential area. The rezone area is about 50 feet below the houses.

5 7. Access to the site is via SE 30th Place, a private roadway connecting to 156th
6 Avenue SE to the east. Emergency access is now sufficient and no need for additional
7 emergency access was identified. No other access for the property is planned.

8 8. Currently the site is developed with four low-rise office buildings and surface
9 and underground parking. The balance of the site is heavily vegetated with trees and shrubs.
10 There are no critical areas.

11 9. No development is proposed under this rezone application. Any future
12 development proposals for the property will be reviewed under a separate permit application
13 with a separate SEPA review.

14 10. The difference in development potential under the new zoning will largely be
15 in increased site density and increased building height. Also, a larger mix of uses will be
16 allowed.

17 11. However, the portion of the rezoned property within 300 feet of single-family
18 zoning will be subject to Transition Area Design District Standards which limit height and
19 provide a minimum setback from the residential neighborhood. Under any development
20 scenario a significant tree buffer protecting the residences will remain.

21 12. In public comment prior to the Hearing Examiner's hearing, it was asserted that
22 the adjacent residential area will not be adequately buffered from the impacts of light and
23 noise under the new zoning. In response, the applicant proposed two special conditions for
24 the Transition Area, one addressing land use and the other relating to light and glare. The first
would prohibit development of retail, eating and drinking, and hotel/motel uses in the
Transition Area. The second would commit structures within the Transition Area use of "dark
sky compliant light fixtures." City Staff agreed to these conditions.

1/4/21

1 13. Public concern was also expressed about the possible extension of 153rd
2 Avenue SE. The applicant responded that, based on trip generation analysis, the property is
3 unlikely to require any access in addition to what now exists.

4 14. In response to a comment on noise, the applicant has relocated existing trash
5 dumpsters and ceased trash collection on the northern side of the property. Development,
6 when it occurs, will be subject to existing noise standards.

7 15. A concern for trees was expressed. Trees on the site will be unaffected by this
8 rezone action. Any future development will have to comply with the City's existing
9 landscape and tree requirements.

10 16. At the hearing, one member of the public argued that current Office zoning is a
11 better fit for the property than the proposed change to Office Limited Business 2. He noted
12 that the nearby residential neighborhood predates the business development below it and
13 argued that zoning should prioritize the residences. He expressed fears of adverse impacts
14 on residential enjoyment and values.

15 17. In response, the applicant noted that the agreed conditions address the concern
16 of compatibility of future development with the neighborhood.

17 18. The Staff Report analyzes the proposal in light of the approval criteria for a
18 Rezone and concludes that the project will meet the relevant approval criteria. The Hearing
19 Examiner concurs with this analysis and adopts the same. The Staff Report is by this
20 reference incorporated herein as though fully set forth.

21 19. On review of the record, the Examiner finds no convincing basis for denying
22 this effort to bring the zoning into agreement with the prior Comprehensive Plan change.
23 The Rezone will not be materially detrimental to uses or property in the immediate vicinity.

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

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CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. It is a Process III decision in which the Examiner makes a recommendation for final action by the City Council. LUC 20.35.015, 20.35.337.

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, meets the criteria of approval for a site-specific Rezone. LUC 20.30A.140.

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

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CONDITIONS

1. Approval of this rezone does not constitute an approval of any Land Use Code amendments, land use entitlement review, or any other ancillary permits that may be required for the design and construction of any proposed development on the rezone site.

2. Retail, eating and drinking and hotel/motel uses within the Transition Area as shown on the Transition Area Map are prohibited.

3. Structures developed within the Transition Area as shown on the Transition Area Map shall use “dark sky compliant light fixtures” to address light and glare concerns. Compliance with this condition shall be required as part of any permit approval for site development.

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RECOMMENDATION

The requested Rezone should be **APPROVED**, subject to the conditions set forth above.

DONE, this 4th day of January, 2021.



Wick Dufford, Hearing Examiner

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1 **NOTICE OF RIGHT TO APPEAL AND TIME LIMIT**

2 (Pursuant to Resolution No. 9473)

3 **RIGHT TO APPEAL-TIME LIMIT**

4 Persons and entities identified in Land Use Code (LUC) 20.35.350, may appeal the
5 recommendation of the Hearing Examiner to the Bellevue City Council by filing a written
6 statement of the Findings of Fact or Conclusions of Law which are being appealed, and
7 paying a fee, if any, as established by ordinance or resolution, no later than 14 calendar days
8 following the date that the recommendation was mailed. The written statement must be filed
9 together with an appeal notification form, available from the City Clerk. The written
statement of appeal, the appeal notification form, and the appeal fee, if any, must be received
by the City Clerk no later than **5:00 p.m. on 19th day, January, 2021.**

10 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

11 An appeal of the Hearing Examiner’s recommendation requires the preparation of a
12 transcript of the hearing before the Hearing Examiner. Within thirty (30) days of the decision
13 which is appealed from, the appellant shall order from the City Clerk, on a form provided by
14 the Clerk, a full transcript of the hearing before the Hearing Examiner. At the time the order
for transcription is placed, the appellant shall post security in the amount of One Hundred
Dollars (\$100.00) for each hearing hour to be transcribed. If appellant fails to post security,
the appeal shall be considered abandoned.

15 Additional requirements and procedures concerning appeals filed with the Council
16 are found at Resolution 9473 and in the City of Bellevue Land Use Code.

17 **CITY COUNCIL CONSIDERATION**

18 Unless appealed, this matter has tentatively been scheduled to go before the City
19 Council on **Monday, February 1, 2021 at 6:00 pm** for consideration, and **Tuesday,**
20 **February 16, 2021 at 6:00 pm** for final action. After (appeal deadline) **Tuesday, January**
21 **19, 2021**, 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)
COUNTY OF KING) ss.

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

In the Matter of Eastgate Office Park Rezone Application, on the 4th day of January 2021, I served a copy of:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

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:

- DFolsom@bellevuewa.gov
imorrison@mhseattle.com
jroe@mhseattle.com
llxmas80@gmail.com
mike.swenson@transpogroup.com
hmoniz@collinswoerman.com
jackson@dillerbros.com
elizabeth.h.daugherty@gmail.com

BY U.S. MAIL by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at the City of Bellevue in accordance with ordinary business practices:

- Tyler Cole/Elizabeth Daugherty
2705 153rd Ave S.E.
Bellevue, WA 98007
Larry Noel
15303 S.E. 27th Street
Bellevue, WA 98007

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 4th day of January 2021.

[Handwritten signature of Karen Hohu]

Karen Hohu
Hearing Examiner Program Coordinator

Application, Petition or Case:

Eastgate Office Park Rezone Application

File No.: 19-125909-LQ