

2390g
8-7-86

EAST BELLEVUE COMMUNITY MUNICIPAL CORPORATION
OF THE CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 231-A

A RESOLUTION of the East Bellevue Community Council disapproving City Council Ordinance No. 3663 reclassifying approximately 6.7 acres of property at the northwest corner of the intersection of Lake Hills Blvd. and 156th Avenue S.E. in the City of Bellevue, commonly referred to as the Lake Hills Shopping Center, on application of R.H. Conner, Inc. and Highway 10 Associates; sustaining the appeals of the appellants; and entering findings of fact and conclusions.

WHEREAS, the City Council of the City of Bellevue, Washington, did pass Ordinance No. 3663 on the 9th day of June, 1986; and

WHEREAS, the subject matter of said Ordinance falls within the jurisdiction of the East Bellevue Community Council pursuant to RCW 35.14.040; and

WHEREAS, following a public hearing held before the East Bellevue Community Council on August 5, 1986, the Community Council did vote to disapprove Bellevue Ordinance No. 3663;

NOW, THEREFORE, BE IT RESOLVED by the Community Council of the East Bellevue Community Municipal Corporation of the City of Bellevue:

Section 1. The East Bellevue Community Council makes and enters the following findings of fact as contained herein on Exhibit A.

Section 2. The East Bellevue Community Council hereby disapproves Ordinance No. 3663 enacted by the Bellevue City Council on June 9, 1986, and pursuant to RCW 35.14.040, this Ordinance shall not become effective within the area of the East Bellevue Community Municipal Corporation.

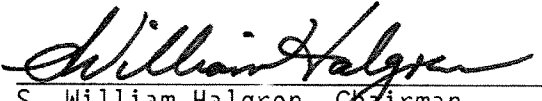
Section 3. The Clerk is hereby directed to certify the original of this Resolution, to file the same and to keep the same on file in her office. The Clerk is further directed to distribute certified or conformed copies of this Resolution to the Bellevue City Council, the

2390g
8-7-86

Department of Design and Development and the Bellevue Planning
Department.

PASSED by a majority vote of the East Bellevue Community Council on
the 7th day of August, 1986, and signed in
authentication of its passage on this 7th day
of August, 1986.

(SEAL)


S. William Halgren, Chairman

Attest:


Sharon Mattioli, Deputy City Clerk

0002.14000
08/06/86
JDW/naa
R: 08/07/86

E X H I B I T A

**EAST BELLEVUE COMMUNITY COUNCIL'S
FINDINGS AND CONCLUSIONS IN
SUPPORT OF RESOLUTION NO. 231-A**

**IN THE MATTER OF THE APPLICATION OF R. H. CONNOR, INC. AND
HIGHWAY 10 ASSOCIATES FOR RECLASSIFICATION OF THE LAKE HILLS
SHOPPING CENTER LOCATED AT THE NORTHWEST CORNER OF LAKE HILLS
BOULEVARD AND 156th AVENUE S.E. FROM NB TO CB/C**

**I.
FINDINGS**

1. At its regular meeting of June 9, 1986, the Bellevue City Council passed Ordinance No. 3663, purporting to reclassify the Lake Hills Shopping Center from NB to CB with conditions. Said Ordinance adopted by reference a Concomitant Agreement setting forth certain conditions, a copy of which was attached to and contemporaneously delivered to the Community Council with a copy of Ordinance No. 3663.
2. Pursuant to applicable rules and procedures adopted and followed by the Community Council, a public hearing was set for July 1, 1986, and appropriate notices of said hearing were given.
3. On July 1, 1986, the Community Council convened and conducted a hearing, taking the testimony and receiving written exhibits from those who were in attendance and desired to be heard or make presentations. At the conclusions of said hearing, the matter was tabled by motion and continued to August 5, 1986.
4. Prior to August 5, 1986, the Community Council received a request from the applicant to reopen the hearing to afford the applicant an additional opportunity to provide information to the Community Council.
5. At the meeting of August 5, 1986, the applicant's agent made inquiry as to whether or not the hearing would be reopened or would the applicant's agent utilize that portion of the agenda open to public comments to provide additional input to the Community Council on the matter to come before the Community Council.
6. The Community Council by motion returned the matter from the table to the Community Council. The motion to disapprove Ordinance No. 3663 made at the conclusion of the July 1, 1986, hearing and continued to the meeting of August 5, 1986, at which time it was removed from the table, was withdrawn by the maker of the motion with no objection from any members of the Community Council. Pursuant to the request of the applicant's agent, a

motion was made to reopen the public hearing for a limited period of time to take new evidence.

7. Applicant's agent, being the former City Attorney of the City of Bellevue, presented oral evidence on behalf of the applicant and filed two additional written exhibits. Near the conclusion of the hearing a third written exhibit was filed, purporting to be a conformed copy of an addendum to the Concomitant Agreement referenced in Ordinance No. 3663. The addendum is dated as of July 1, 1986, and purports to add an additional condition to the terms of the approval granted by the City Council in Ordinance No. 3663 at their June 9, 1986, meeting.

8. While applicant's agent availed herself of the opportunity to utilize the hearing reopened at her request, she also served notice at that time of her intent to object to the Community Council holding any public hearing concerning the matter, whatsoever. Such objection to a public hearing was not raised at the hearing of July 1, 1986.

9. At the conclusion of the receipt of all oral and written testimony, the public hearing was closed by motion of the Community Council.

10. Pertinent portions of the City of Bellevue's Comprehensive Plan and Zoning Code provide for the definition of "Neighborhood Retail District" as set forth in the Hearing Examiner's report. Said definition provides in part as follows "...generally this district is located at the intersection of collector streets, and at least one-half mile from a competing district." Said definition also provides the average site of leasable square footage for such a Neighborhood Retail District is 50,000 square feet with a range of 30,000 square feet to 100,000 square feet. The Neighborhood Retail District requires 4 to 10 acres of site area and normally serves a trade area of 5,000 to 40,000 people.

11. The "Community Retail District" definition contained in the Comprehensive Plan and as set forth in the Hearing Examiner's report provides in part that the size of such retail district is an average of 150,000 square feet of leasable area with a range of 100,000 square feet to 300,000 square feet. The approximate size of the site should be 10 to 30 acres in area which normally serves a trade area population of 40,000 to 150,000 and that "...generally this district is located readily accessible to major arterials, and at least two miles from competing districts."

12. The streets 156th and Lake Hills Boulevard which abut the shopping center on the east and south sides respectively, are two lane collector streets.

13. The subject center is located less than one mile from two centers which are currently zoned CB. Specifically, the

Crossroads Shopping Center which is a large Community Retail District center located approximately 9/10ths of a mile north of the subject property.

14. The Hearing Examiner in his reports of both January 29, 1986, and March 21, 1986, found that the provisions of Land Use Code sections 20.10.340 and .360 favor Neighborhood Retail for the subject property.

15. The existing shopping center is 6.7 acres in size and is nearly, if not completely, fully developed.

16. All adjacent properties to the shopping center are developed in either single-family or multi-family dwellings. Immediately adjacent to portions of the shopping center, not separated by any roadway are single-family dwellings.

17. The applicant's agent submitted a list at the August 5, 1986, meeting listing six shopping areas where residential development abutted the commercial development. None of the listed areas had single-family residences directly adjacent to the shopping center, except those examples which had NB zoning. Single-family residences did not immediately abut shopping centers with CB or higher commercial classifications.

18. The applicant's agent has by correspondence and oral presentation to the Community Council indicated that certain conditions should be imposed to mitigate concerns of impacts on adjoining or vicinal properties. These recommended conditions included limiting the hours of operation of truck deliveries to the center, representation that the recycling center would not be re-established in the center and that the hours of operation of power sweeping the center would be restricted. These suggested conditions by the applicant do not appear in Ordinance No. 3663, nor the adopted Concomitant Agreement.

19. The Land Use Code section 20.30A.140 sets forth the criteria that must be met for reclassification.

20. The Comprehensive Plan policy 21.V.13.100 et seq, sets forth the goals, objectives and policies for the retail and office areas which include this center. The policy contained under 21.V.13.110 specifically provides in part that uses in Neighborhood Commercial Districts should be expanded to better serve the surrounding neighborhoods by allowing for a variety of retail, office and residential uses "...provided that the character and level of development is of a low intensity which is compatible with the adjacent residential districts."

21. The implementation guidelines for the retail office areas suggest the allowance for reclassification from NB to CB with conditions and specifically provides that reclassification should be with conditions which are consistent with listed guidelines and further provides in part as follows: "...additional

conditions or limitations may be appropriate at the time of review of a specific request."

22. The requested reclassification was initiated on behalf of the owner.

23. The K-Mart Plaza area, in the vicinity of 148th Avenue and Main Street, in close proximity to the subject property, is approximately 16 acres in size.

24. The subject center is presently 100% occupied. Over the past two years the vacancy rate in the center has been approximately 10-11%. This vacancy rate has been consistent over approximately the past ten years. The industry vacancy rate for such types of centers is approximately 10-12%.

25. The applicant represented that reclassification will allow it to maintain the viability of the center in that the reclassification would make it easier to find new tenants by virtue of a greater number of permitted uses.

26. The staff clarified that the applicant may replace any nonconforming use with any use that is in the same category and is not necessarily required to replace it with an identical use. Nonconforming uses if continued are allowed to exist indefinitely.

27. The staff also advised the Council that there is a procedure whereby the applicant may expand the existing uses under the existing zoning by use of a conditional use permit process.

28. The condition requiring the NB performance standards be complied with as recommended by the Hearing Examiner and the City Council, is not contained in the Concomitant Agreement approved by the City Council at its meeting of June 9, 1986, by the passage of Ordinance No. 3663.

29. Under the CB designation, it is possible, due to the elimination of size constraints contained in the NB classification, for one or a few uses permitted under CB to fill the entire space available in the center and eliminate or severely reduce the multiplicity of uses.

30. The City has not established any regulations or guidelines with respect to the operations or hours of businesses within centers in the City.

31. There have been prior noise problems as a result of the operation of the center and some lack of responsiveness to the concerns of adjacent residents until the pendency of these proceedings.

From the foregoing Findings, the Community Council makes the following:

II. CONCLUSIONS

1. The applicant has the burden of establishing that a substantial change in circumstances has occurred since the last zoning action involving the property. The reclassification request must bear a substantial relationship to the public health, safety, morals or welfare and must meet the criteria established in section 20.30A.140 of the Land Use Code.

2. The applicant has sought reclassification of the subject property based upon portions of the Southeast Bellevue Subarea Plan contained in 21.V.13.000 et seq. There is no evidence to substantiate applicant's contention that the reclassification is necessary at this time to maintain the viability of the center. While the reclassification to CB might make it easier to find new tenants, the applicant has clearly been able to keep tenants within the center. The subject center is about of average size for a Neighborhood Business classification, abuts only upon two two-lane streets which are not major arterials, consists of only approximately 54,000 square feet of leasable area and is less than one mile from two areas already zoned CB, including the large CB zoned center located at Crossroads. The proposed CB zoning would eliminate size restrictions on major users which presently exist under the NB classification and present a realistic potential for reduction in the number and mix of uses within the center.

3. The applicant has not carried the burden of proving the need for the rezone. The uses permitted by the proposal are substantially more intense than should be allowed in this small neighborhood center. If the present CB/C reclassification was to be approved without further conditions, businesses which may fit under one classification, yet have substantial segments that are not otherwise permitted or would only be permitted by a conditional use permit, could be permitted outright and not subject to further review. An example is the uses permitted under designations 521 through 524. These could be considered a part of the outright permitted use of 5251. Bulk retail, lumber yards and building materials proposed not to be permitted or restricted by conditional use permit, could in fact be allowed in connection with a Fred Meyer or Ernst Hardware type operation without further review. Other uses causing concern are the day care center and increased traffic attendant with the same, the intensification from permitting general merchandise and other retail trades which are very broad and very intense uses for this size center. Conditional uses permitted such as lumber and other building materials in bulk retail, roller skating rinks, ice skating rinks, bowling alleys, exhibition halls and horticultural nurseries are more regional in nature and not appropriate as possible uses in this center.

4. The proposal does not meet the Comprehensive Plan guidelines or policies that the character and level of development be of low

intensity which is compatible with the adjacent residential districts. This center, because of its small size, with single-family residences abutting immediately upon the borders of the center, should be maintained in a less intense, commercial center than permitted by the proposed reclassification.

5. The need to expand uses at this time for the viability of the center, and the benefit to the community at this time has not been shown.

6. The proposal, as it exists, would potentially, substantially raise the intensity and level of uses beyond what is intended in the Comprehensive Plan.

7. The applicant has not shown any need for additional CB zoning in this area with or without conditions.

8. The reclassification does not bear a substantial relationship to the public health, safety, morals or welfare based upon the facts and the foregoing reasons.

9. The reclassification is unwarranted in that no substantial change of circumstances has been established that would justify the need for the change of zoning. There is no evidence in the record demonstrating the need for additional property in the proposed land use district classification, and there has been no showing that the proposed zoning classification is appropriate or necessary for reasonable development of the property. The property has developed and continued to operate in a viable manner under the present classification. The subject property is not suitable for development in conformance with the standards under the proposed zoning classification for the reasons set forth in these Findings and Conclusions.

10. The reclassification will be materially detrimental to the uses and property in the immediate vicinity of the subject property by reason of the potential for increased intensity of uses permitted under the proposal in such a small neighborhood shopping center. The potential for elimination of the multiplicity of uses and the replacement of neighborhood businesses with more intense community business uses is detrimental and not in the public interest.

11. The applicant has not established that the reclassification has merit and value for the community as a whole.

12. The applicant has not established that the reclassification is in accord with the Comprehensive Plan based upon the Findings and Conclusions set forth herein. Said proposal exceeds the concept of the plan that it be of low intensity and compatible with adjacent residential districts. It conflicts with the provisions of the Comprehensive Plan with respect to size, intensity of uses and distance from other CB centers. Further, the proposal as it exists does not have adequate conditions or

limitations to satisfy the criteria in section 20.30A.140 of the Land Use Code specifically subsections a,d and e.

13. The Concomitant Agreement attached to Ordinance No. 3663 does not contain all of the conditions required by the City Council and does not contain adequate conditions to satisfy the requirements of the Comprehensive Plan or the requirements of LUC 20.30A.140.

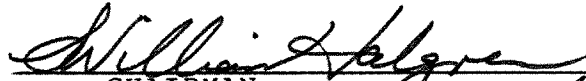
14. The applicant has recognized the need to further condition the proposed reclassification as indicated by its written proposal to add conditions. Such conditions are not contained in the proposal before this Council, but should be.

**III.
RECOMMENDATIONS**


Based upon the foregoing Findings and Conclusions, the East Bellevue Community Council disapproves Ordinance No. 3663 enacted by the Bellevue City Council on June 9, 1986.

DATED this 7th day of August, 1986.

EAST BELLEVUE COMMUNITY COUNCIL



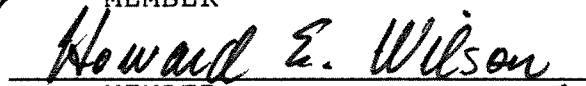
CHAIRMAN




MEMBER



MEMBER



MEMBER



MEMBER