

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF BREMERTON**

In the Matter of the Application of)	No. BP14 00006
)	
Elizabeth Wilson, on behalf of)	Fjord Lane Rezone
West Hills Development, LLC)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Rezone Request</u>)	AND RECOMMENDATION

SUMMARY

The Hearing Examiner recommends that the request to rezone two parcels located at 3rd Avenue West and Sinclair Way/West Sunn Fjord Lane, from Industrial Park to Low Density Residential, be **APPROVED**.

SUMMARY OF RECORD

Hearing Date:

The City of Bremerton Hearing Examiner held an open record hearing on the request on March 24, 2014.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Allison Satter, City Senior Planner
John Rose, President for Olympic Property Group (OPG), Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Rezone Application, dated January 30, 2014
2. Section of City Zoning Map
3. Determination of Completeness, February 21, 2014
4. Notice of Application and Hearing; with Declaration of Posting, dated February 25, 2014; Declaration of Mailing, dated February 25, 2014, with mailing labels; Affidavit of Publication, dated February 27, 2014, with Kitsap Sun legal notice, published February 25, 2014
5. Adoption of Existing Environmental Document, dated March 11, 2014; Determination of Nonsignificance, dated August 21, 2013; Notice of SEPA Addendum to Determination of Nonsignificance, dated October 4, 2013
6. Staff Report & Analysis, dated March 18, 2014

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

*Findings, Conclusions, and Recommendation
City of Bremerton Hearing Examiner
Fjord Lane Rezone, No. BP14 00006*

FINDINGS

1. Elizabeth Wilson, on behalf of West Hills Development, LLC (Applicant), requests a rezone from Industrial Park (IP) to Low Density Residential (R-10) of two parcels located at 3rd Avenue West and Sinclair Way/West Sunn Fjord Lane.¹ West Hills Development, LLC is owned by Olympic Property Group. *Exhibit 1; Exhibit 6, Staff Report & Analysis.*
2. The City of Bremerton (City) determined the application was complete on February 21, 2014. On February 25, 2014, the City gave combined notice of the application and the open record hearing by mailing notice to all owners of real property within 300 feet of the subject property, and by posting the combined notice on the subject property, and by publication in the *Kitsap Sun*.² *Exhibit 4.*
3. The City acted as lead agency and analyzed the environmental impact of the proposed rezone request under the State Environmental Policy Act (SEPA). The City previously had conducted environmental review of this area as part of a site specific 2013 Comprehensive Plan amendment. The City reviewed an environmental checklist and other information on file with the lead agency. This environmental review resulted in the issuance of a Determination of Nonsignificance (DNS), dated August 13, 2013. The City determined that the Comprehensive Plan amendment would have no significant impacts on the environment. On October 13, 2013, the City issued a Notice of SEPA Addendum to Determination of Nonsignificance clarifying that the West Hills Development Agreement no longer applies to the subject parcels. On March 11, 2014, the City adopted the DNS and Addendum as the environmental review document and threshold determination for this rezone request.³ *Exhibit 5; Exhibit 6, Staff Report & Analysis, page 3.*
4. Much of the land in the general area that includes the subject property is underdeveloped or undeveloped. Surrounding property use includes industrial areas to the north, east, and west, residential areas to the east and south, and undeveloped areas to the east, south, and west. Surrounding zoning designations include IP to the north; R-10, Urban Medium Residential (UMR) and Industrial (I) to the east; UMR and Urban Reserve (UR) to the south, and R-10 and IP to the west. *Exhibit 6, Staff Analysis, pages 2 - 4; Exhibit 2.*
5. The subject property was changed from Industrial Park designation to Low Density Residential designation in the 2013 Annual Comprehensive Plan Amendments process, as approved by Bremerton City Council on November 20, 2013. The current zoning

¹ The subject property is identified by tax parcel numbers 282401-1-085-2001 and 282401-1-086-2000. A legal description may be found in the staff report. *Exhibit 6, Staff Report & Analysis, page 1.*

² Bremerton Municipal Code (BMC) 20.02.100 and BMC 20.02.110 permit combined notice of application and open record hearing.

³ Adoption of existing environmental documents is authorized under the provisions of WAC 197-11-630.

classification of Industrial Park is inconsistent with the Comprehensive Plan. *See, RCW Chapter 36.70A; Bremerton Municipal Code (BMC) 20.40.170.* The intent of the proposed rezone is to change the zoning of the parcels to a designation consistent with the Comprehensive Plan. *Exhibit 6, Staff Analysis, page 3 and 4; Testimony of Allison Satter.*

6. Mr. John Rose testified that he supports the rezone and that the company he represents plans to sell the property. Mr. Rose stated that, although the property was saleable as property in an industrial zone, he believes it will be more marketable as property in a residential zone. *Testimony of John Rose.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has authority to conduct an open record hearing on a rezone request and to issue a recommendation on the request to the Bremerton City Council. *Bremerton Municipal Code (BMC) 2.13.070; BMC 2.13.080(3); BMC Chapter 20.02, Table 040.*

Criteria for Review

The Hearing Examiner holds the open record hearing on the rezone request and provides a recommendation to the City Council. *Chapter 20.02 BMC, Table 040; BMC 20.58.040(b).*

The City may grant a site-specific rezone only if it finds that:

- (1) The rezone is consistent with the Comprehensive Plan;
- (2) The rezone will advance the public health, safety, or welfare, and will not have adverse impacts on adjacent properties;
- (3) The rezone is necessary because either:
 - (i) Conditions in the immediate vicinity or neighborhood have so markedly changed that it is in the public interest to approve the rezone; or
 - (ii) The rezone will correct a zone classification or zone boundary that was inappropriate when established; and
- (4) The rezone is in the public interest.

BMC 20.58.040(d).

Conclusions Based on Findings

1. **The proposed rezone would be consistent with the City Comprehensive Plan.** The City Council amended the land use designation from Industrial Park to Low Density Residential as part of the 2013 Annual Comprehensive Plan Amendments process. The Applicant's request to change the zoning from IP (Industrial Park) to R-10 (Low Density Residential) would be consistent with the City Comprehensive Plan, as amended by the City Council in 2013. *Findings 1 and 5.*
2. **The proposed rezone would advance the public health, safety, or welfare, and would not have adverse impacts on adjacent properties.** The City provided adequate public notice and opportunity for comment on the rezone request. The City previously analyzed

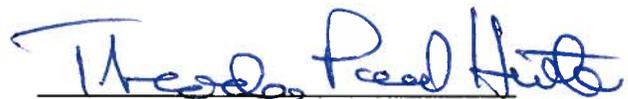
the environmental impact of amending the property's land use designation and issued a DNS as part of the Comprehensive Plan amendment process. The City determined that the proposed rezone would not have a probable significant adverse impact on the environment. The proposed rezone from IP to R-10 is appropriate for these parcels and would benefit adjacent properties by providing a transition for the existing multifamily residential area to the east and the underdeveloped residentially zoned property to the west. The rezone would facilitate development in the area. *Findings 3 - 6.*

3. **The proposed rezone is necessary because the rezone will correct a zone classification that is inconsistent with the Comprehensive Plan.** Proof of changed conditions is not required for a rezone if the proposed rezone implements policies contained in the comprehensive plan. *Bjarnson v. Kitsap County*, 78 Wn. App. 840 (Div. I, 1995); *Henderson v. Kittitas County*, 124 Wn. App. 747 (Div. III, 2004). The City Council determined that a change in the Comprehensive Plan designation from IP to R-10 was appropriate. Approval of this rezone request will implement the Comprehensive Plan with appropriate development regulations as required by the Growth Management Act. *Findings 1 - 5.*
4. **The proposed rezone is in the public interest.** The proposed zoning amendment from IP to R-10 is in the public interest to bring the zoning district into compliance with the Comprehensive Plan designation. *Findings 1 - 6.*

RECOMMENDATION

Based on the findings and conclusions above, the Hearing Examiner recommends that the request to rezone two parcels located at 3rd Avenue West and Sinclair Way/West Sunn Fjord Lane, in Bremerton, Washington, from IP (Industrial Park) to R-10 (Low Density Residential), be **APPROVED**.

Recommended this 1st day of April 2014.



THEODORE PAUL HUNTER

Hearing Examiner

Sound Law Center