

ORDINANCE NO. 925

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE CITY'S OFFICIAL ZONING MAP FROM R-48 AND R-18 TO MB FOR A PARCEL OF LAND LOCATED AT THE INTERSECTION OF N 160th STREET AND AURORA AVENUE N, TAX PARCEL NO. 3293700010.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70C RCW; and

WHEREAS, the City of Shoreline, via Application No. PLN 21-0008, seeks a site-specific rezone of a parcel of land located at the intersection of N 160th Street and Aurora Avenue N, identified by Tax Parcel No. 3593700010, and addressed as 16357 Aurora Avenue N; and

WHEREAS, the requested site-specific rezone would amend the City's Official Zoning Map for this parcel from the current mixed zoning of Residential 18 units per acre (R-18) and Residential 48 units per acre (R-48) to Mixed Business (MB); and

WHEREAS, the site-specific rezone implements the Comprehensive Plan land use designation for the parcel of Mixed Use 1; and

WHEREAS, the environmental impacts of the site-specific zone resulted in the issuance of a Determination of Non-Significance (DNS) on January 28, 2021; and

WHEREAS, SMC 20.30.060 classifies a site-specific rezone as a Type C decision for which the City of Shoreline Hearing Examiner, after an open record public hearing, prepares findings and conclusions, and makes a recommendation to the City Council; and

WHEREAS, the City of Shoreline Hearing Examiner held a properly noticed open record public hearing on March 17, 2021 and, on April 2, 2021, the Hearing Examiner issued "Findings, Conclusions and Recommendation," finding that the site-specific rezone satisfied the criteria set forth in SMC 20.30.320, recommending approval; and

WHEREAS, pursuant to SMC 20.30.060, the City Council has final decision-making authority, and this decision is to be made at a public meeting; and

WHEREAS, the City Council considered the Hearing Examiner's recommendation at its April 26, 2021 regular meeting; and

WHEREAS, the City Council concurs with the April 2, 2021, "Findings, Conclusions, and Recommendation" of the City of Shoreline Hearing Examiner, determining that the site-specific rezone satisfies the criteria set forth in SMC 20.30.320 and should be approved;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Hearing Examiner’s Recommendation. The City of Shoreline Hearing Examiner’s April 2, 2021, Findings, Conclusion and Recommendation attached as Exhibit A, is hereby adopted.

Section 2. Amendment. The City’s Official Zoning Map shall be amended to change the zoning designation for the parcel located at the intersection of N 160th Street and Aurora Avenue N, addressed as 16357 Aurora Avenue N, and identified by Tax Parcel No. 3293700010, from Residential 18 units per acre (R-18) and Residential 48 units per acre (R-48) to Mixed Business (MB), as depicted on Exhibit B.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.


Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON MAY 10, 2021.



Mayor Will Hall

ATTEST:



Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:



Julie Ainsworth-Taylor, Assistant City Attorney
on behalf of Margaret King, City Attorney

Date of Publication: May 13, 2021
Effective Date: May 18, 2021

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

| | | |
|---|---|--|
| In the Matter of the Application of |) | No. PLN21-0008 |
| |) | |
| The City of Shoreline |) | Former Oakes Nursing Facility |
| |) | Site-Specific Rezone |
| |) | |
| |) | FINDINGS, CONCLUSIONS, |
| |) | AND RECOMMENDATION |
| <u>For Approval of a Site-Specific Rezone</u> |) | <i>(Corrected April 19, 2021)</i> ¹ |

SUMMARY OF DECISION

The Hearing Examiner recommends that the City Council **APPROVE** the request to rezone the 2.66-acre parcel located at 16357 Aurora Avenue North from the Residential 48 and Residential 18 zoning designations to the Mixed-Business zoning designation.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on March 17, 2021, using remote meeting technology. The Hearing Examiner left the record open until March 19, 2021, to allow for the submission of additional comments on the proposal.

Testimony:

The following individuals testified under oath at the open record hearing:

- Steven Szafran, City Senior Planner
- Nora Gierloff, City Planning Manager
- Dianne Pfeil
- Dicky Leonardo
- Frank Uyu
- Nancy Pfeil
- Pam Cross

City Attorney Julie Ainsworth-Taylor represented the City at the hearing.

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated March 1, 2021

¹ This recommendation provides the correct hearing date of March 17, 2021. The original recommendation incorrectly stated that the hearing occurred on March 16, 2021. No other changes have been made.

2. Site Plan, undated
3. Vicinity Map, undated
4. Zoning Map, dated January 19, 2021
5. Aurora Avenue N. Zoning Map, undated
6. Comprehensive Plan Map, undated
7. Neighborhood Meeting Summary, dated March 5, 2021
8. Notice of Application and Public Hearing, issued February 12, 2021
9. Public Comments:
 - a. Comment from Tom Bachelder and Jennifer Lee, dated February 18, 2021
 - b. Comment from Tom Bachelder and Jennifer Lee, dated February 18, 2021
 - c. Comment from Renee Dillon, dated February 8, 2021
 - d. Comment from Renee Dillon, dated February 18, 2021
 - e. Comment from Nancy Pfeil, dated February 12, 2021
 - f. Comment from Nancy Pfeil, dated February 12, 2021
 - g. Comment from Nancy Pfeil, dated February 12, 2021
 - h. Comment from Nancy Pfeil, dated February 12, 2021
 - i. Comment from Nancy Pfeil, dated February 12, 2021
 - j. Comment from Nancy Pfeil, dated February 12, 2021
10. Determination of Nonsignificance (DNS), issued January 28, 2021
11. Development Examples in the Mixed-Business Zone and Similar Zones
12. City PowerPoint Presentation
13. Additional Public Comments:
 - a. Comment from Vince Vonada, dated March 18, 2021
 - b. Comment from Vicky Turner, dated March 18, 2021
 - c. Comment from Tom Bachelder, dated March 19, 2021
 - d. Comment from Nancy Pfeil, dated March 19, 2021
 - e. Comment from Renee Dillon, dated March 19, 2021

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

FINDINGS

Application and Notice

1. The City of Shoreline (City, or Applicant) requests a site-specific rezone of a 2.66-acre parcel from the “Residential 48” (R-48) and “Residential 18” (R-18) zoning designations to the “Mixed-Business” (MB) zoning designation. The subject property is currently developed with a vacant, single-story building measuring 115,868 square feet that was formerly used as a nursing-home facility. The existing building on the property is being renovated to support an *enhanced shelter*, which is defined as a “low-barrier, 24 hour a day facility intended to provide persons experiencing homelessness with access to resources including, but not limited to, housing, basic needs, hygiene, case management and social programs as they transition to permanent housing.” *City of Shoreline Ordinance No. 906, effective November 3, 2020*. The property owner intends to utilize

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the existing building and associated improvements on the property for an enhanced shelter and to later redevelop the property with high-density multi-family housing. The property is located at 16357 Aurora Avenue N.² *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 2; Exhibit 4.*

2. The City Planning and Community Development Department (PCDD) determined that the site-specific rezone application was complete on February 12, 2021. The same day, PCDD provided notice of the application and the associated open record hearing by mailing notice to property owners and residents within 500 feet of the site, posting notice on-site and on the City website, and publishing notice in *The Seattle Times*, with a comment deadline of March 17, 2021. The City received several public comments in response to its notice materials, which generally raised concerns about the proposed enhanced shelter use on the property. Specifically, Tom Bachelder and Jennifer Lee submitted comments noting that they own residential property adjacent to the subject property and have concerns that the operation of an enhanced shelter on the property would diminish neighboring property values. Renee Dillon and Nancy Pfeil submitted comments specific to the environmental review of the proposal, which are discussed in detail below. *Exhibit 1, Staff Report, page 3; Exhibit 8; Exhibit 9.*
3. PCDD held a neighborhood meeting for the proposed rezone on February 18, 2021, as required under Shoreline Municipal Code (SMC) 20.30.090. Following a presentation on the proposal by PCDD staff, members of the public attending the meeting provided comments. Specifically:
 - Ms. Slater (no first name provided) inquired about whether the proposed zoning change would apply to other properties around the site and whether the proposed enhanced shelter use of the site would be allowed under the property's current R-48 zoning designation. PCDD staff told Ms. Slater that the proposed zoning change applied only to the subject property and that an enhanced shelter use is allowed on a temporary basis in the R-48 zone.
 - Ken Ritland asked whether King County had initiated the rezone and whether the County could build a larger facility on the site if the rezone is approved. PCDD staff told Mr. Ritland that the Shoreline City Council initiated the rezone and that a larger facility would be allowed on the property under MB zoning regulations.
 - Nancy Pfeil noted that, under the property's current R-48 zoning designation, an enhanced shelter use is allowed on the site until 2023 and that, if rezoned to MB, the property could accommodate up to 250 units. She raised concerns that an enhanced shelter would increase emergency police and fire responses to the area and that the City Council is biased in favor of approving the rezone. Ms. Pfeil also raised concerns that existing site conditions, including erosion hazards and noxious weeds, adversely impact adjacent properties and salmon habitat within Boeing Creek.

² The subject property is identified by tax parcel number 3293700010. *Exhibit 1, Staff Report, page 1.*

- Stacy Ciez noted that she owns a warehouse building to the north of the property and raised concerns that future residents of the shelter would engage in illegal activities in the area.
- Gary Turner inquired about how the City would address illegal activities committed by future shelter residents.
- An unnamed member of the public also raised concerns about future shelter residents.
- Beverly Hawkins noted that not all homeless people are involved in illegal activity and that the City has a need to house its homeless population.

Exhibit 1, Staff Report, pages 2 and 3; Exhibit 7.

State Environmental Policy Act

4. PCDD acted as lead agency and analyzed the environmental impacts of the proposed site-specific rezone under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). PCDD reviewed the Applicant's environmental checklist and other information on file and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) on January 28, 2021, with a comment deadline of February 12, 2021, and an appeal deadline of February 11, 2021. *Exhibit 1, Staff Report, page 3; Exhibit 10.*
5. As noted above, the City received public comments on the DNS. Renee Dillon submitted a comment raising concerns that the Applicant's environmental checklist for the proposed rezone did not adequately address the public safety impacts of operating an enhanced shelter on the property. Nancy Pfeil submitted a comment similarly raising concerns about the adequacy of the Applicant's environmental checklist, noting that the checklist does not address the impacts of an enhanced shelter use on the neighboring residential properties. She also raised concerns about existing flooding and erosion conditions of the site, noting that these conditions impact Boeing Creek and Hidden Creek and that the impacts could worsen with the additional density that would be allowed with a rezone of the property to MB. Additionally, Ms. Pfeil raised concerns about existing noxious weeds on the property, about potential development impacting sunlight to neighboring properties, and about the potential noise and public safety impacts to neighboring properties from an enhanced shelter or from various commercial uses that would be allowed in the MB zone. Ms. Pfeil included with her comments several photographs showing the existing and historic conditions of the property and surrounding area. *Exhibit 1, Staff Report, page 3; Exhibits 9.c through 9.j; Exhibit 10.*
6. Ms. Dillon filed an appeal related to the environmental review conducted for the rezone proposal, which focused on the Applicant's environmental checklist but did not specifically challenge or reference the actual DNS issued for the proposal. The City filed a motion to dismiss the appeal, which the Hearing Examiner ultimately granted based on

the lack of a specific challenge to the DNS. *Hearing Examiner's Decision on Dispositive Motion (No. HEA-2020-01), dated March 9, 2021.*

Comprehensive Plan and Zoning

7. The property and adjacent properties along Aurora Avenue N. are designated "Mixed-Use 1" (MU-1) under the City Comprehensive Plan. The Comprehensive Plan describes the intent of the MU-1 designation as follows:
- The Mixed-Use 1 (MU1) designation encourages the development of walkable places with architectural interest that integrate a wide variety of retail, office, and service uses, along with form-based maximum density residential uses. Transition to adjacent single-family neighborhoods may be accomplished through appropriate design solutions. Limited manufacturing uses may be permitted under certain conditions.
- Comprehensive Plan Land Use Policy LU9. Exhibit 1, Staff Report, page 2; Exhibit 6.*
8. PCDD staff identified the following Comprehensive Plan goals and policies as relevant to the proposal:
- Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods. [Land Use Goal LU I]
 - Establish land use patterns that promote walking, biking, and using transit to access goods, services, education, employment, [and] recreation. [Land Use Goal LU II]
 - Provide, through land use regulation, the potential for a broad range of housing choices and levels of affordability to meet the changing needs of a diverse community. [Land Use Policy LU8]
 - Encourage development that is supportive of transit, and advocate for expansion and addition of new routes in areas with transit supportive densities and uses. [Transportation Policy T28]
 - Encourage development of an appropriate mix of housing choices through innovative land use and well-crafted regulations. [Housing Goal H II]
 - Integrate new development with consideration to design and scale that complements existing neighborhoods, and provides effective transitions between different uses and intensities. [Housing Goal H V]
 - Encourage a variety of residential design alternatives that increase housing choice. [Housing Policy H1]
 - Encourage infill development on vacant or underutilized sites. [Housing Policy H3]
 - Assure that site, landscaping, building, and design regulations create effective transitions between different land uses and densities. [Housing Policy H23]
- Exhibit 1, Staff Report, pages 4 and 5.*

9. As noted above, the property is currently zoned R-48 and R-18 and is proposed to be rezoned to MB, consistent with adjacent properties along Aurora Avenue N. to the north, east, and south. The purpose of the City's high-density residential zones, including the R-48 and R-18 zones, is to "provide for a mix of predominantly apartment and townhouse dwelling units and other compatible uses." *SMC 20.40.030.C*. The purpose of the MB zone is to "encourage the development of vertical and/or horizontal mixed-use buildings or developments along the Aurora Avenue and Ballinger Way corridors." *SMC 20.40.040.C*. *Exhibit 1, Staff Report, page 2; Exhibit 4; Exhibit 5*.
10. Chapter 36.70A Revised Code of Washington (RCW) mandates that zoning classifications should be consistent with Comprehensive Plan designations. The MB zone is an implementing zone for the MU-1 Comprehensive Plan designation. PCDD staff determined that the property's current zoning classifications are inconsistent with the Comprehensive Plan because the R-48 and R-18 zones do not provide for form-based maximum density residential uses that are encouraged under the MU-1 land use designation. *Exhibit 1, Staff Report, pages 4 through 7*.

Existing and Surrounding Property

11. As noted above, the approximately 2.66-acre parcel is currently developed with a vacant, single-story, 115,868 square foot building that was built in 1953 and was formerly used as a nursing-home facility. Other associated improvements on the property include asphalt parking areas, gravel/dirt parking areas, outdoor patios, and landscaping. The property is generally flat. No critical areas have been identified on the property. Adjacent properties to the west are zoned "Residential 6" (R-6) and are developed with single-family residences. Properties to the north and east are zoned MB and are developed with commercial facilities. Properties to the south are zoned MB and R-48 and are developed with multi-family dwellings and a vacant restaurant. *Exhibit 1, Staff Report, pages 1 and 2; Exhibits 2 through 4*.

Rezone Criteria

12. PCDD staff reviewed the proposed site-specific rezone request against the required criteria for a rezone in *SMC 20.30.320.B* and determined:
- The proposed rezone would be consistent with the Comprehensive Plan.
 - The MB zoning district is the City's most intensive zoning district. Although redevelopment of the property is not anticipated in the near future, rezoning the property to MB would allow for a variety of housing opportunities, employment, and services that would be accessible to the neighborhood and the region through potential future development.
 - The proposed enhanced shelter use and potential future development for multi-family housing or commercial uses would be supported by the King County Metro line located adjacent to the property.

- The proposed rezone would encourage a mix of housing choices, including an enhanced shelter, which is a housing choice that is currently lacking in the city and in the greater north King County region.
- Any future development of the site would be required to comply with transition area standards under SMC 20.50.021, which are designed to create effective transitions between high-intensity uses along the Aurora corridor and lower-density residential uses.
- The rezone would not adversely affect the public health, safety, or general welfare.
- Apart from the subject property, nearly all properties located on the Aurora corridor are zoned either MB or Town Center.
- Impacts from an enhanced shelter use on the property would be mitigated through indexed criteria, which would require the enhanced shelter to: (1) be operated by a state, county, or city government, a nonprofit corporation registered with the state, or a federally recognized 501(c)(3) organization with the capacity to organize and manage an enhanced shelter; (2) allow inspections of the facilities at reasonable times to ensure compliance with City requirements; (3) develop and enforce a code of conduct acceptable to the City that would, at a minimum, include prohibitions against criminal activities such as theft and threats of violence, and prohibitions against the sale, purchase, possession, and use of alcohol or illegal drugs on the property; (4) limit the number of residents at the enhanced shelter to 100 or in accordance with the general capacity of the building and the level of staffing to be provided at the shelter, whichever is lower; (5) provide a solid, six-foot-high fence along all property lines abutting residential zoning districts; (6) submit a parking plan acceptable to the City; (7) provide regular reports to the City describing how the shelter is meeting performance metrics; (8) work with the City to reduce law enforcement responses to the shelter if they exceed a threshold level; (9) coordinate with the Shoreline Police Department to establish protocols for police responses to the shelter and to shelter clients throughout the city; (10) require adherence to a good neighbor plan addressing litter, noise, security procedures, and other issues of concern to the surrounding community; (11) establish criteria for discontinuing an enhanced shelter use if documented violations of operational agreements are not timely addressed; and (12) establish provisions for City approval of any proposed change in the enhanced shelter operator. *See Ordinance No. 906.*
- The rezone is warranted to achieve consistency with the Comprehensive Plan.
- The MB zone is an implementing zone for the MU-1 designation, and the proposed MB zone is in an area near employment, commercial areas, and where high levels of transit are present. In contrast, the current zoning of R-48 and R-18 is inconsistent with the MU-1 designation's desire for form-based maximum density residential uses.
- The rezone would not be materially detrimental to uses or property in the immediate vicinity of the subject rezone because the site and the area around the

site, apart from the low-density residential area to the west, has been designated for commercial and mixed-use development since the City was incorporated in 1995.

- Any new development on the property would be required to comply with all applicable municipal code development standards, including standards for development on property adjacent to single-family residential zoning districts.
- The proposed rezone and subsequent redevelopment of the property would have merit and value for the community.
- The proposed rezone would implement the City's vision for the area as articulated in the Comprehensive Plan. This location was chosen for allocation of the City's population growth, and the rezone would allow the site to provide additional density and/or employment opportunities.

Exhibit 1, Staff Report, pages 3 through 9.

Testimony

13. City Senior Planner Steven Szafran testified generally about the proposal to rezone the property from the R-48 and R-18 zoning designations to the MB zoning designation. He explained that King County Housing Authority plans to operate an enhanced shelter within the existing building on the property and that a majority of public comments on the rezone proposal pertained to impacts from an enhanced shelter use. Mr. Szafran explained that King County is conducting a separate SEPA environmental review of the proposal to operate an enhanced shelter on the property. He described the area surrounding the property, noting that all adjacent properties along Aurora Avenue N. are zoned MB, with single-family residential development located to the west, within the R-6 zone, and multi-family dwellings located to the south, within the R-48 zone. Mr. Szafran detailed how the proposal would meet the specific criteria for approval of a rezone, stressing that the property's current zoning designations are inconsistent with the MU-1 land use designation for the property under the Comprehensive Plan. He stated that the proposed rezone would not affect public health and safety because the property is located on the Aurora Avenue corridor, where properties have been zoned MB or Town Center, and because any impacts from future development of the property would be adequately mitigated through the City's development code standards, including standards related to transition setbacks from residential development, building step backs, and landscape buffers. *Testimony of Mr. Szafran.*

14. City Attorney Julie Ainsworth-Taylor stated that the entire City of Shoreline is located within an urban growth area (UGA) and that WAC 197-11-800(6) generally exempts rezone decisions from SEPA environmental review when the proposed rezone is for a property within a UGA and would not require a Comprehensive Plan amendment. She explained that PCDD conducted an environmental review of the proposal as a cautionary measure because there was a concern that the last full Environmental Impact Statement prepared for the City Comprehensive Plan in 2010 may not have fully addressed the environmental impacts of the proposed rezone. *Statements of Attorney Ainsworth-Taylor.*

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15. Dianne Pfeil testified that she owns a licensed home daycare on property directly adjacent to the subject property. She expressed concerns that future residents of the planned enhanced shelter would have mental health issues and would engage in drug use and criminal activity that would adversely impact surrounding businesses and residences. *Testimony of Dianne Pfeil.*
16. Dicky Leonardo expressed concerns that residents of the enhanced shelter would cause disturbances to area residents and would diminish home values in the area. *Testimony of Mr. Leonardo.*
17. Frank Uyu testified that he has seen an increase in used needles and garbage in the community and expressed concerns that the planned enhanced shelter would increase this problem. *Testimony of Mr. Uyu.*
18. Nancy Pfeil expressed concerns that residents of the enhanced shelter would engage in violence due to drug use and mental health issues. She stated that the City does not have any experience with low-barrier shelters and that rezoning the property to MB would detrimentally impact the community. *Testimony of Nancy Pfeil.*
19. Pam Cross raised concerns that some members of the public may not be attending the hearing because the City had indicated that the hearing would begin at a different time. *Testimony of Ms. Cross.*
20. Attorney Ainsworth-Taylor responded to Ms. Cross's concerns, noting that all published notices of the hearing provided a correct time for the start of the hearing but that an incorrect time had been provided in a City Manager's report providing a general overview of City matters at a City Council meeting. *Statements of Attorney Ainsworth-Taylor.*
21. City Planning Manager Nora Gierloff also responded to Ms. Cross's concerns, confirming Attorney Ainsworth-Taylor's statements. *Testimony of Ms. Gierloff.*
22. Mr. Szafran responded to concerns about the plan to operate an enhanced shelter on the property, noting that the indexed criteria applicable to an enhanced shelter use would mitigate for impacts to neighboring properties and to the community. *Testimony of Mr. Szafran.*

Additional Materials

23. The Hearing Examiner left the record open until March 19, 2021, to ensure that any member of the public who did not attend the hearing due to confusion about the start time of the hearing would be able to submit comments on the proposal. *Oral Ruling of the Hearing Examiner.*

24. Vince Vonada submitted a comment noting that his family owns commercial property across the street from the subject property and raising concerns about the City's notice of the proposal to commercial property owners in the vicinity of the site. He requested that capacity at the enhanced shelter be limited to 60 residents to reduce impacts to neighboring properties and to provide a greater chance of success for shelter residents. *Exhibit 13.a.*
25. Vicky Turner submitted a comment noting that she owns commercial property across the street from the subject property that similarly raised concerns about the City's notice of the proposal and that requested shelter capacity be limited to 60 residents. *Exhibit 13.b.*
26. Tom Bachelder and Jennifer Lee resubmitted their previous written comment raising concerns about the proposal's impact to neighboring residential property values. *Exhibit 13.c.*
27. Nancy Pfeil submitted a comment raising concerns about the City applying for a rezone of the property while separately considering amendments to the zoning code to allow an enhanced shelter use in the MB zone. She also reiterated her previous concerns about the proposal, including concerns about the Applicant's environmental checklist, about potential development impacting sunlight to neighboring properties, and about the potential noise and public safety impacts to neighboring properties from the operation of an enhanced shelter. *Exhibit 13.d*
28. Renee Dillon submitted a comment noting that the proposed rezone would not be in the best interests of the community. *Exhibit 13.e.*

Staff Recommendation

29. Recommending that the Hearing Examiner forward to the City Council a recommendation of approval, PCDD staff determined that the proposal would be consistent with the City Comprehensive Plan and would meet the specific criteria for a site-specific rezone under SMC 20.30.320.B. *Exhibit 1, Staff Report, pages 3 through 9, Testimony of Mr. Szafran.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and make recommendations to the City Council for approval of a site-specific rezone under Chapter 2.15 SMC and SMC 20.30.060, Table 20.30.060.

Criteria for Review

Under SMC 20.30.320.B, the criteria for the rezone of a property are:

1. The rezone is consistent with the Comprehensive Plan; and

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2. The rezone will not adversely affect the public health, safety or general welfare; and
3. The rezone is warranted in order to achieve consistency with the Comprehensive Plan; and
4. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject rezone; and
5. The rezone has merit and value for the community.

Conclusions Based on Findings

The rezone would meet the criteria of SMC 20.30.320.B. The property is designated “Mixed-Use 1” (MU-1) under the City Comprehensive Plan, which is intended to encourage “development of walkable places with architectural interest that integrate a wide variety of retail, office, and service uses, along with form-based maximum density residential uses.” *Comprehensive Plan Land Use Policy LU9.* Rezoning the property from R-48 and R-18 to MB would be consistent with the MU-1 Comprehensive Plan designation for the property. The MB zoning district implements the MU-1 designation’s intent to provide for a variety of retail, office, service, and form-based maximum density residential uses by encouraging development of “mixed-use buildings and developments along the Aurora Avenue and Ballinger Way corridors.” *SMC 20.40.040.C.* In contrast, the R-48 and R-18 zoning districts are inconsistent with the MU-1 designation because, as high-density residential zones, they encourage “predominately apartment and townhouse units,” with limited opportunities for commercial and mixed uses. *SMC 20.40.030.C.* Accordingly, the proposed rezone is warranted to achieve consistency with the Comprehensive Plan. In addition, the proposal would further several Comprehensive Plan goals and policies promoting a mix of housing choices and a variety of commercial services in the city by allowing an enhanced shelter use in the short term and by allowing for future redevelopment of the property for multi-family housing or commercial uses, with future redevelopment subject to standards designed to ensure effective transitions to neighboring residential properties.

The City Planning and Community Development Department (PCDD) provided reasonable notice of the application and associated hearing. PCDD received several comments from members of the public in response to its notice materials, as well as at a February 18, 2021, neighborhood meeting on the proposed rezone. In addition, several members of the public submitted comments after the hearing consistent with the Hearing Examiner’s oral ruling allowing for additional comments on the proposal. Public comments generally raised concerns about the impacts from residents of the planned enhanced shelter, specifically impacts associated with the perception that shelter residents would engage in drug use and illegal activities at much higher rates than other community members. As an initial matter, the Hearing Examiner notes that the specific proposal to operate an enhanced shelter on the property is not before the Hearing Examiner in this review of the rezone application and that the environmental impacts of that proposal are being reviewed separately by King County through the SEPA process. The role of the Hearing Examiner is therefore limited to reviewing the rezone application for compliance with the applicable rezone criteria and to provide a recommendation to the City Council.

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Accordingly, the planned use of the property for an enhanced shelter is relevant to the Hearing Examiner's role only insofar as it would be one of several uses permitted on the property through the proposed rezone to MB that could potentially affect the public health and safety or could cause a detriment to properties or uses in the immediate vicinity of the subject property.

The Hearing Examiner concludes that the proposed rezone would not adversely affect the public health, safety, or general welfare and would not be materially detrimental to uses or property in the immediate vicinity. The property is located along the Aurora Avenue corridor, with all adjacent properties along the corridor to the north, south, and east already zoned MB. Impacts from the planned enhanced shelter use would be addressed through indexed criteria applicable to enhanced shelters, which include requirements related to inspections of the facility; implementation of a code of conduct prohibiting residents from engaging in criminal activity and from possessing and using illegal drugs or alcohol on the property; limitations on resident capacity; provisions for fencing along property lines abutting residential properties; adherence to a good neighbor plan addressing litter, noise, security procedures, and other community concerns; and coordination with law enforcement to establish protocols for police responses to the shelter and to shelter residents. Impacts from potential future development of the property would be addressed through the City's development regulations, including regulations designed to create an effective transition to adjacent residential properties. In addition, any further future development of the property would require additional environmental review under SEPA. The proposed rezone of the property to MB has merit and value for the community and would be consistent with the City's Comprehensive Plan. *Findings 1 – 29.*

RECOMMENDATION

Based on the preceding findings and conclusions, the Hearing Examiner recommends that the City Council **APPROVE** the request to rezone the 2.66-acre parcel located at 16357 Aurora Avenue N. from the R-48 and R-18 zoning designations to the MB zoning designation.

RECOMMENDED this 2nd day of April 2021.
(Corrected April 19, 2021).

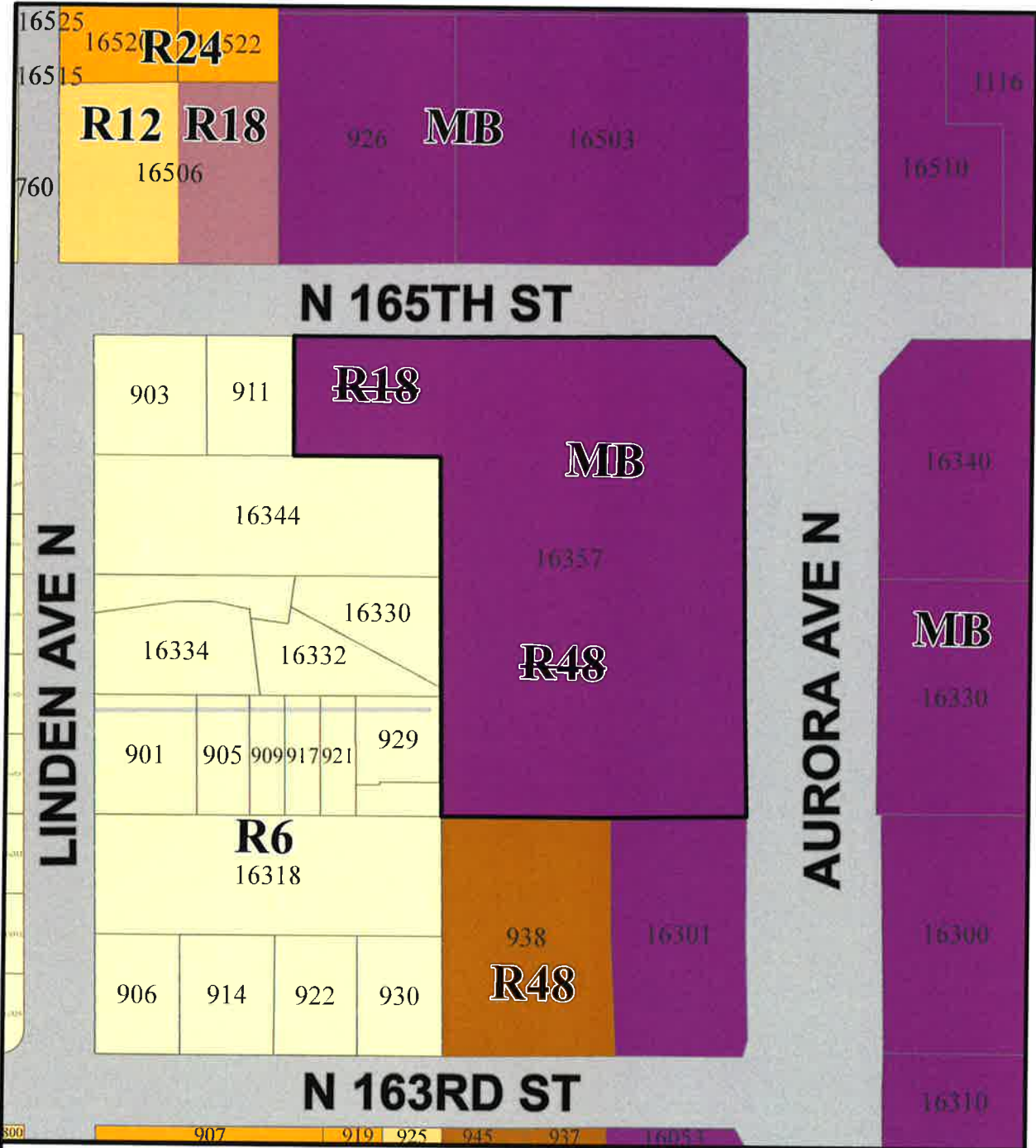


ANDREW M. REEVES
Hearing Examiner
Sound Law Center

Zoning Update: 16357 Aurora Ave N

Ordinance No. 925 - Exhibit B

ORIGINAL



16357 Aurora Ave N Zoning Update R-18/R-48 to MB

Land Use Legend

| | |
|--|----------------------------------|
| TC-1 to TC-4; Town Center | CZ; Contract Zone |
| MUR-70; Mixed Use Residential (70' height) | R-48; Residential, 48 units/acre |
| MUR-45; Mixed Use Residential (45' height) | R-24; Residential, 24 units/acre |
| MUR-35; Mixed Use Residential (35' height) | R-18; Residential, 18 units/acre |
| MB; Mixed Business | R-12; Residential, 12 units/acre |
| CB; Community Business | R-8; Residential, 8 units/acre |
| NB; Neighborhood Business | R-6; Residential, 6 units/acre |
| PA 3; Planned Area 3 | R-4; Residential, 4 units/acre |
| C; Campus | |



Feature Legend

| | |
|-----------------|--------------------|
| - Parcel Change | - Unclassified ROW |
| - City Boundary | - Parcel Line |



No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.

Date Printed: Date: 1/19/2021 | Request: 28324



