

## QUASI JUDICIAL PROCEEDING – PROCESS III

Consideration of the SRM Affordable Housing Rezone application submitted by SRM Development for a rezone of a 4.55-acre site located at 999 118<sup>th</sup> Avenue SE from Office/Limited Business (OLB) to Neighborhood Mixed Use (NMU). Permit File No. 22-118369-LQ.

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*City Clerk's Office*

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## EXECUTIVE SUMMARY

**CONSIDERATION** Tonight Council will consider an application by SRM Development for the SRM Affordable Housing Rezone, located at 999 118<sup>th</sup> Avenue SE. Council will be asked to take final action at a future meeting.

## HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends approval of the application. See the attached Hearing Examiner Summary for details of the recommendation.

## CONSIDERATIONS

In accordance with City of Bellevue Land Use Code 20.35.300, this is a Process III quasi-judicial land use matter in which the Hearing Examiner issues a recommendation to Council. Council's role is to consider and take final action, at a subsequent meeting, on each Process III application.

During the consideration of the rezone application Council shall not accept new information, written or oral, but shall consider the complete record developed before the Hearing Examiner and the recommendation of the Hearing Examiner in deciding upon the application.

In making a final decision regarding the rezone application, Council shall:

- Approve the application;
- Approve the application with modifications and/or conditions;
- Remand the application back to the Hearing Examiner and the Director for an additional hearing limited to specific issues identified by Council; or
- Deny the application

State and City ethics code prohibit Councilmembers from participating in City decisions where they have a conflict of interest, such as when a Councilmember has a financial or personal interest in the subject proposal. Any Councilmember who has a conflict of interest with this rezone application must recuse themselves from participating.

In addition, for quasi-judicial matters such as this rezone application, state law—called the appearance of fairness doctrine—requires decision-makers to conduct the proceedings in a way that is fair and

unbiased in both appearance and fact. This doctrine provides that Councilmembers, as the decision-makers, may not engage in *ex parte* communications with opponents or proponents of the subject proposal. This prohibition is mitigated when the councilmember places the *ex parte* communication on the record; and discloses the content and allows the parties to rebut the substance of the communication.

Staff has conducted an administrative search of the city's email system to identify any potential *ex parte* contacts related to this matter. This evening, Councilmembers will be asked to disclose any such contacts identified through that search, as well as any additional *ex parte* contacts that may have occurred outside of the city's email system.

Following any disclosures, staff will present a brief staff report and a summary of the Hearing Examiner's recommendation. Council will then have the opportunity to ask questions limited to information contained within the Hearing Examiner's administrative record. Council will be asked to take final action at a future meeting, tentatively scheduled for January 27.

## OPTIONS

N/A

## ATTACHMENTS

- A. Hearing Examiner's Summary
- B. Hearing Examiner's Administrative Record
- C. Rezone Decision Criteria

## AVAILABLE IN COUNCIL LIBRARY

N/A