

QUASI JUDICIAL PROCEEDING – PROCESS III

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

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EXECUTIVE SUMMARY

FINAL ACTION

Tonight Council will consider taking final action on the Hearing Examiner's recommendation to approve the SRM Affordable Housing Rezone, located at 999 118th Avenue SE.

HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends approval. See the Hearing Examiner Summary (Attachment A).

CONSIDERATIONS

In accordance with Land Use Code (LUC) 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 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.

At its regular meeting on January 13, Council was presented with the Hearing Examiner's recommendation along with the full administrative record in this matter. Tonight, Council will consider taking final action on the rezone application based on the decision criteria in LUC 20.30A.140 (Attachment B). Staff have provided a proposed ordinance approving the rezone consistent with the Hearing Examiner recommendation in tonight's packet. Alternatively, should the Council decide to modify or set conditions on the approval of the application, or deny the application, staff will prepare a new proposed ordinance memorializing Council's decision, to be presented at a future Council meeting for adoption. Additionally, Council can remand the application back to the Hearing Examiner and the

Director of Development Services for an additional hearing limited to specific issues identified by Council.

As a reminder, 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.

Prior to the January 13 meeting, staff conducted an administrative search of the city's email system to identify any potential ex parte contacts related to this matter. No ex parte contacts were identified. Staff have conducted a new administrative search for the dates of January 13 through today's date and, this evening, Councilmembers will be asked to disclose any ex parte contacts that may have occurred within that date range, whether the contact occurred within the City's email system or outside of the system.

OPTIONS

1. Adopt the Ordinance approving the rezone application Permit File No. 22-118369-LQ; rezoning a 4.55-acre property located at 999 118th Avenue SE from Office/Limited Business (OLB) to Neighborhood Mixed Use (NMU); and amending Ordinance No. 3149 to repeal and terminate application of this Ordinance No. 3149 as to this property.
2. Do not adopt the Ordinance and direct staff to bring back an Ordinance approving the application with modifications and/or conditions for adoption at a future meeting.
3. Do not adopt the Ordinance and remand the application back to the Hearing Examiner and the Director for an additional hearing limited to specific issues identified by Council.
4. Do not adopt the Ordinance and direct staff to bring back an Ordinance denying the application for adoption at a future meeting.

ATTACHMENTS

- A. Hearing Examiner's Summary
 - B. Rezone Decision Criteria
- Proposed Ordinance No. 6899

AVAILABLE IN COUNCIL LIBRARY

N/A