

## **SUMMARY**

In this item, the City Council is considering the Hearing Examiner's Recommendation to Approve an application to rezone a 4.95 acre site located within the Wilburton/NE 8<sup>th</sup> Street Subarea from General Commercial (GC) to Community Business (CB), to allow General Merchandise uses, submitted on behalf of the Target Corporation. Currently, the General Merchandise use is not allowed in the GC zone. Target is requesting the CB zone designation to allow construction of the first retail/service development project in the area, supporting the "retail village" vision articulated in Wilburton/NE 8<sup>th</sup> Street Subarea Policy No. S-WI-3 of the City's Comprehensive Plan.

### **1. BACKGROUND**

In October of 2013, City staff deemed Target's initial application to rezone the property from GC to CB "incomplete" because, at the time, the City had not secured full development rights to complete all of the NE 4<sup>th</sup> Street extension project – essentially an "access improvement" that is expressly identified in the City's Comprehensive Plan as a prerequisite for "Community Business" uses in the Wilburton Subarea. Because the NE 4<sup>th</sup> Street Extension Project was already approved and funded as part of the City's CIP, and construction of Phase 1 was underway, by agreement between the City and the applicant, informal review of the underlying rezone application commenced under a "Predevelopment Services Permit", with the applicant assuming all risk during the informal review period, and acknowledging that the City was not/could not guarantee any specific outcome for the rezone application.

In March of this year, the City granted Target's ongoing request to proceed with formal processing of its rezone application. While staff advised Target that negotiations to secure right-of-way needed for the NE 4<sup>th</sup> Extension were moving forward, it noted that the status of right-of-way acquisition could impact any analysis of the application by reviewing staff, the Hearing Examiner, and/or the City Council. In other words, just as agreed in November of 2013, processing of the pending rezone request would occur at the applicant's sole risk.

Public notice of the application was published on April 3, 2014. A public meeting was held on April 24, 2014. There were seven attendees. According to staff present, none of the attendees had any comments specifically regarding the rezone. Instead, Target representatives presented their design proposal and the public attendees' questions were focused on design issues.

The City satisfied its SEPA review process through compliance with applicable review and notice procedures. Noting that the proposed Rezone is a non-project action, the City's Environmental Coordinator issued a Determination of Non-Significance for the rezone by notice dated May 8, 2014. No comments and no appeals were received within the applicable comment/appeal periods. Public Notice of the Public Hearing for the Application, and the Director's Recommendation of Approval, was issued on May 8, 2014.

On May 14, 2014, a King County Superior Court Judge signed and entered an Agreed Judgment and Decree of Appropriation, resolving litigation and confirming the City of Bellevue's property rights needed to complete the entire NE 4<sup>th</sup> Street Extension Project.

## **2. APPLICATION BEFORE THE EXAMINER**

On Thursday, June 5, 2014, the Examiner received testimony under oath at the duly noticed public hearing for the underlying application at Bellevue City Hall, Council Chambers. At the hearing, Sally Nichols, Senior Land Use Planner, presented the Director's Recommendation of Approval/Staff Report and representatives for the applicant and the land owner appeared in support of the application. *No members of the general public attended or testified. No written comments were received.*

On June 16, 2014, the Hearing Examiner issued Findings of Fact, Conclusions and Recommendation that the application should be approved by the City Council. The deadline for filing an appeal of the Examiner's Recommendation is 5:00 p.m. on Monday, June 30, 2014.

## **3. SITE CHARACTERISTICS**

The property that is subject to the pending rezone application is located on the corner of 116<sup>th</sup> Avenue NE and the NE 4<sup>th</sup> Street extension (now under construction), running east between 116<sup>th</sup> Avenue NE and the old BNSF Rail corridor. Both streets – 116<sup>th</sup> and the new NE 4<sup>th</sup> – are classified as major arterials. The site is within the Wilburton/NE 8<sup>th</sup> Street Subarea of the City's Comprehensive Plan. Currently, the site conditions are less than optimal – uneven, poorly maintained surface parking lots, an abandoned car dealership building, and a blackberry-filled slope up against the BNSF railroad corridor and tracks, anticipated to become a public access trail in the future.

## **4. COMMENTS**

*As noted in Section 2 above, no public testimony was received, and no one presented testimony or evidence in opposition to the application.*

## **5. HEARING EXAMINER RECOMMENDATION**

Based upon detailed Findings and Conclusions, the Hearing Examiner recommends that Target's application to rezone a 4.95 acre site located within the Wilburton/NE 8<sup>th</sup> Street Subarea from GC to CB, to allow General Merchandise uses, should be **APPROVED**, subject to the express understanding or condition that approval of this rezone will not/does not constitute, nor does it imply any expectation of approval of any Land Use Code amendments, Design Review, or any other ancillary permits that may be required for the design and construction of the proposed Bellevue Target store.