

ATTACHMENT B
(Concomitant Agreement)

1-26-83
5826F

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3228

AN ORDINANCE reclassifying property located at 301 151st Place N.E. upon application of Bellevue School District No. 405.

WHEREAS, an application for reclassification of the property hereinafter described was duly filed with the appropriate City officials; and

WHEREAS, on October 14, 1982, a public hearing was held thereon before the Hearing Examiner upon proper notice to all interested persons; and

WHEREAS, on November 16, 1982, the Hearing Examiner recommended to the City Council approval with conditions of said reclassification of said property located at 301 151st Place N.E. from OU to R-5; and made and entered findings of fact and conclusions based thereon in support of his recommendation; and

WHEREAS, on November 29, 1982, a request for reconsideration of the Hearing Examiner's recommendation of November 16, 1982, was filed by Bellevue School District No. 405; and

WHEREAS, on December 23, 1982, the Hearing Examiner, after reviewing the record, issued his response to the request for reconsideration and entered his Order Upon Reconsideration which became a part of his previously entered recommendation of November 16, 1982; and

WHEREAS, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner including his Order Upon Reconsideration, and has determined that the public use and interest will be served by reclassifying said property; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the City Environmental Procedures Ordinance; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings of fact and conclusions based thereon made and entered by the Hearing Examiner in support of his recommendation to the Council in this matter, as set forth in "Findings and Recommendation of the Hearing Examiner" and "Order Upon Reconsideration of the Hearing Examiner for the City of Bellevue, In the Matter of the Application of Bellevue School District No. 405 and its Lessee, The Maranatha Christian Fellowship For a

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Reclassification and a Master Conditional Use, File Nos. HE-A 82-13, HE-D 82-13."

Section 2. The use classification of the following described property is changed from OU to R-5 with conditions:

Northeast quarter of the southwest quarter of the northwest quarter of Section 35, Township 25 North, Range 5 East, W.M., in King County, Washington, less easterly 270 feet.

This reclassification from OU to R-5 is conditioned on full compliance by the owners of said property and their heirs, assigns, grantees, and successors in interest, with the terms and conditions of that certain Concomitant Zoning Agreement, executed by Bellevue School District No. 405, which has been given Clerk's Receiving No. 8174 and which is adopted by reference into this ordinance as though it were fully set forth herein.

Section 3. This ordinance shall be published by posting it in the three official posting places of the City, and shall take effect and be in force five days after the date of posting.

PASSED by the City Council this 7th day of February 1983, and signed in authentication of its passage this 7th day of February 1983.

(SEAL)

Roy A. Ferguson
Roy A. Ferguson, Mayor

Approved as to form:

Linda M. Youngs, City Attorney

Richard Gidley
Richard Gidley, Assistant City Attorney

Attest:

Marie K. O'Connell
Marie K. O'Connell, City Clerk

Published February 12, 1983

CONCOMITANT ZONING AGREEMENT

WHEREAS, the City of Bellevue, Washington, a noncharter code city, under the laws of the State of Washington (Chapter 35A.63 RCW and Article 11, Section 11 of the Washington State Constitution) has authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens, and thereby control the use and development of property within its jurisdiction; and

WHEREAS, the owners of certain property have applied for a rezone of such property (hereinafter referred to as the property) described below which is within the City's jurisdiction; and

WHEREAS, the City of Bellevue Hearing Examiner has recommended that the property located at 301 151st Place N.E., which property is hereinafter more particularly described, be rezoned from OU to R-5; and

WHEREAS, the City pursuant to RCW 43.21C of the State Environmental Policy Act should mitigate any adverse impacts which might result because of the proposed rezone; and

WHEREAS, the Owners have indicated willingness to cooperate with the City of Bellevue to insure compliance with the Bellevue Land Use Code, the Bellevue Sign Code and all other local, state and federal laws relating to the use and development of the property; and

WHEREAS, the City, in addition to civil and criminal sanctions available by law, desires to enforce the rights and interests of the public by this concomitant agreement;

NOW, THEREFORE, in the event the property located at 301 – 151st Place N.E. and more particularly described as:

Northeast quarter of the southwest quarter of the northwest quarter of Section 35, Township 25 North, Range 5 East, W. M., in King County, Washington, less easterly 270 feet.

Is rezoned from OU to R-5 and in full consideration of that event should it occur, the Owners do hereby covenant and agree as follows:

1. Specific Conditions:

- a. The School District shall continue to allow access to pedestrians through the property connecting the pedestrian walkway from 150th Place N.E. with N.E. 4th Street. At the time of any redevelopment of the property or development of now-vacant properties to the west or to the north, the District shall document a good faith effort to provide a coordinated, formal pedestrian easement to the City for that same connection. The need for that easement shall also be reviewable at the time of any subsequent renewal of the subject permit.
- b. At the time of any redevelopment of the property or development of now-vacant properties to the west or to the north, the School District shall document a good faith

effort to develop a coordinated circulation plan (subject to review and approval by the Department of Public Works) which would provide direct arterial access for the subject site in order to minimize traffic impacts upon the existing single-family neighborhoods to the south and to the east.

2. In the event that any term or clause of this agreement conflicts with applicable law, such conflicts shall not affect other terms of this agreement which can be given effect without the conflicting term or clause, and to this end the terms of this agreement are declared to be severable.
3. Any amendments or modifications of this agreement shall be valid only if mutually agreed upon by the City of Bellevue and the Owners (including heirs, assignees and successors to the Owners) in writing and recorded with the King County Department of Records and Elections.
4. In addition to all other remedies available to the City by law, the City reserves the right to initiate proceedings to revoke the rezoning of the property should the Owners fail to comply with any of the terms and conditions of this agreement.
5. The City may at its discretion bring a lawsuit to compel specific performance of the terms and conditions of this agreement.
6. Nothing in this agreement shall be construed to restrict the authority of the City to exercise its power to rezone the property in future years.
7. The Owners agree to indemnify and save harmless the City of Bellevue from and against all claims, suits, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with the Owners' negligent performance of or failure to perform fully any term or condition of this agreement.
8. This agreement shall be binding on the heirs, assigns, and successors of the Owners of the property.

DATED this 31 day of Jan., 1983.

OWNERS:

BELLEVUE SCHOOL DISTRICT NO. 405

By: Dennis Carmichael

Approved as to forms:

Richard Gidley

Assistant City Attorney

STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

On this day personally appeared before me Dennis Carmichael to me known to be the Superintendent for Bellevue School District No. 405 authorized to execute the within and foregoing instrument and acknowledged that he/she signed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this 31 day of January, 1983.

Kathy L. Ageltine
Notary Public in and for the
State of Washington,
Residing in Redmond