

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1910

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, AMENDING THE CITY'S ZONING MAP TO CHANGE THE ZONING CLASSIFICATION OF TAX PARCEL NOS. 0420082077 AND 0420082079 FROM COMMUNITY MIXED USE (CMU) TO INDUSTRIAL (I)

WHEREAS, on March 14, 2014, the Panattoni Development Company made application to amend the City of Fife zoning map (rezone) to change the zoning classification of Tax Parcel Nos. 0420082077 and 0420082079 ("Subject Property") from "Community Mixed Use" (CMU) to "Industrial" (I); and

WHEREAS, the Subject Property is slightly less than nine acres and is located at the southeast corner of 70th Avenue East and 20th Street East; and

WHEREAS, the rezone application was submitted concurrently with a privately initiated Comprehensive Plan map amendment application to change the future land use designation of the Subject Property from "Mixed Commercial/High Density Residential" to "Industrial"; and

WHEREAS, On August 13, 2013, a SEPA Determination of Non-Significance was issued for the applicant's request for a comprehensive plan map amendment from Mixed Commercial/High Density Residential" to "Industrial" and for the zoning map amendment from "Community Mixed Use" to "Industrial" for the Subject Properties (SEP13-0002); and

WHEREAS, the applicant submitted a revised SEPA checklist as part of the March 2014 application, to which an addendum was issued (SEP14-0002); and

WHEREAS, the Comprehensive Plan map amendment changing the future land use designation of the Subject Property to "Industrial" was approved by the City Council on March 10, 2015 by Ordinance No. 1903; and

WHEREAS, the Growth Management Act requires that development regulations be consistent with the comprehensive plan, so a rezone is needed for consistency between the City's adopted Comprehensive Plan future land use map and the zoning map; and

WHEREAS, public hearing was held on April 23, 2015 before the Hearing Examiner, after notice of public hearing was posted and circulated as required by the Fife Municipal Code; and

WHEREAS, the Hearing Examiner issued Findings of Fact, Conclusions of Law and Recommendation on May 8, 2015, a copy of which is attached hereto as Exhibit A; now therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The City Council affirms and adopts the Hearing Examiner Findings of Fact, Conclusions of Law and Recommendation attached hereto as Exhibit A.

Section 2. The official City of Fife Zoning Map is hereby amended as set forth in Exhibit B attached hereto.

Section 3. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 4. The Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the 26th day of May 2015.

Passed by the City Council on the 9th day of June 2015.



Subir Mukerjee, City Manager

ATTEST:



for Carol Etgen, City Clerk/Treasurer

APPROVED AS TO FORM:



Loren D. Combs, City Attorney
assistant City Attorney

Published: June 11, 2015
Effective Date: June 16, 2015

1 **BEFORE THE HEARING EXAMINER FOR THE CITY OF FIFE**

2 Phil Olbrechts, Hearing Examiner

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RE: Panattoni Development Co. Site Specific Rezone REZ-0001	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION
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8 **INTRODUCTION**

9 The applicant has requested approval of a site specific rezone for two contiguous
10 parcels located at the southeast corner of 70th Avenue East and 20th Street East from
11 Community Mixed Use (CMU) to Industrial (I). It is recommended that the City
 Council approve the requested rezone.

12 **ORAL TESTIMONY**

13 Chris Larson, City of Fife associate planner, summarized the proposal. In response to
14 questions from the examiner, Mr. Larson acknowledged that the subject properties are
15 located about a half to a quarter mile north of the Union Pacific Railroad tracks, even
 though the description to the comprehensive plan I designation only identifies areas
 south of the railroad tracks as suitable for industrial development.

16 Tyler Litzenberger, applicant representative, stated Panattoni has been under contract
17 with the property owner for a couple years. For the previous 10-15 years the property
18 owner tried to sell the property for retail without successes. Mr. Litzenberger showed
19 an aerial photograph depicting where WSDOT SR 167 facilities would be located,
 which will be directly adjacent to the subject properties.

20 Jerome O'Leary, listing broker for the subject properties, testified that the property
21 has been marketed for multifamily and retail. The marketability of the property was
22 extinguished once the proposed extension of SR 167 next to the properties was made
23 known, with SR 167 roadway elevated up to 24 feet immediately adjacent to where
24 buildings would be constructed. The loss of the gathering place properties to WSDOT
 would also eliminate local traffic in the vicinity which is needed to sustain local retail
 development. Infrastructure improvements have already been made to serve the area
 and could be well used for industrial development.

EXHIBITS

1 Exhibits 1-18 identified in the April 13, 2015 staff report were admitted into evidence
2 at the April 24, 2015 hearing. The following exhibits were also admitted at the
3 hearing:

4 Exhibit 19: Staff power point.
5 Exhibit 20: Applicant power point.

FINDINGS OF FACT

Procedural:

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9 1. Applicant. The applicant is Panattoni Development Company.
10 2. Hearing. The Hearing Examiner conducted a hearing on the application
11 on April 24, 2015 at Fife City Hall.

Substantive:

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13 3. Site/Proposal Description. The applicant has requested approval of a site
14 specific rezone for two contiguous parcels totaling about 8.95 acres located at the
15 southeast corner of 70th Avenue East and 20th Street East from Community Mixed
16 Use (CMU) to Industrial (I). A comprehensive plan land use map amendment for the
17 two parcels has already been approved by the City Council on March 10, 2015 by
Ordinance No. 1903, which changed the map designation from Mixed
Commercial/High Density Residential to Industrial. The I district is the only zoning
district authorized to implement the I comprehensive plan land use map designation.

18 4. Adverse Impacts. There are no adverse impacts associated with the
19 proposal. The proposed rezone is fully compatible and consistent with surrounding
20 uses. Abutting properties to the south and west are zoned I. The southern property is
21 currently vacant and the western property accommodates a warehouse. Properties
22 along the entire east side of 70th Avenue East extending southerly about a half mile to
23 Valley Avenue are all zoned I. Although the parcels to the east and to the north are
zoned CMU, those are the properties that have been acquired by WSDOT for
extension of SR 167 (see Finding of Fact No. 6). Rezoning the property to I is the
most compatible and appropriate zoning designation for the subject property given
these circumstances.

24 The property is also well suited for the I designation because it will be served by
25 adequate transportation infrastructure. The subject properties have street frontage on
20th Street East, which is a minor arterial, and 70th Avenue East, which is a principal
arterial. 70th Avenue East is a designated truck route to accommodate industrial
related traffic.

1 5. Change in Circumstances. There are significant changes in circumstances that
2 justify the proposed rezone. The subject properties are a part of several contiguous
3 parcels that were zoned CMU in 2007. The properties to the north (across 20th Street
4 East) from the subject properties had previously been acquired by the City for a park
5 facility, to include possible open space, stormwater functions and civic uses.

6 The CMU properties to the north, consisting of about 54 properties, were commonly
7 known as the "Gathering Place". The Gathering Place properties were sold near the
8 end of 2010/beginning of 2011 to the Washington State Department of Transportation
9 (WSDOT) for state right-of-way to extend SR 167 past the subject properties, with a
10 portion of the SR 167 elevated up to 24 feet immediately east of the subject
11 properties.

12 The sale of the Gathering Place Properties and the proposed SR 167 extension
13 represent a significant change in circumstances to the CMU properties. As testified
14 by Mr. O'Leary, the applicant's listing agent, the conversion of the properties from a
15 pedestrian oriented recreational area to a raised state road system will eliminate the
16 local traffic necessary to make retail use viable. An elevated state road immediately
17 adjacent to the properties would also not be compatible with any retail or multi-
18 family use. This change in circumstances no longer makes the subject properties
19 suitable for mixed use development.

20 CONCLUSIONS OF LAW

21 Procedural:

22 1. Authority of Hearing Examiner. FMC 19.92.035(A) provides that the
23 hearing examiner shall make recommendations to the City Council for site-specific
24 rezoning applications that are consistent with the comprehensive plan.

25 Substantive:

2. Zoning Designation. The property is currently zoned CMU.

3. Review Criteria. FMC 19.92.045 governs the criteria for site-specific
rezones. The applicable rezone criteria are quoted below in italics with
accompanying Conclusions of Law that apply those criteria to the Findings of Fact
made above.

FMC 19.92.045(A): *In order for a zoning map or text amendment to be approved,
the following criteria must be met:*

1 *A. The proposed amendment is consistent with the goals and policies of the*
2 *comprehensive plan; and*

3 4. The proposal is for the most part consistent with the comprehensive plan. Most
4 significantly, the proposed rezone is consistent with the I comprehensive land use
5 map designation. As the I zoning district is the only implementing zone for the I
6 comprehensive map designation, approval of the rezone is essentially legally
7 mandated. The proposed rezone does run afoul of the comprehensive plan I
8 description, which provides that the I designation permits industrial development east
9 of 70th Avenue East and south of the Union Pacific Railroad Tracks. The subject
10 properties are located east of 70th Avenue East as required, but they are located a half
11 to a three-quarter mile north of the railroad tracks. This minor inconsistency is
12 superseded by the required consistency between the comprehensive I map
13 designation. The proposed rezone is also consistent with Comprehensive Plan Policy
14 5.1 and 5.2, which encourage the creation of employment opportunities and a suitable
15 supply of industrial lands. As determined in Finding of Fact No. 5, the planned use of
16 adjoining property for an SR 167 extension no longer makes the property marketable
17 for mixed use development. Rezoning the property to I will allow for more
18 successful economic use of the property, which will in turn help create more
19 employment opportunities and contribute to a more suitable supply of industrial
20 lands.

21 **FMC 19.92.045(B):** *For map amendments, the proposed zoning is consistent and*
22 *compatible with the uses and zoning of surrounding property; and*

23 5. As determined in Finding of Fact No. 4, the proposal is consistent and compatible
24 with the uses and zoning surrounding the property.

25 **FMC 19.92.045(C):** *For map amendments, the property is suited for the uses*
allowed in the proposed zoning classification; and

6. For the reasons identified in Finding of Fact No. 4 and 5, the property is highly
suited for the uses allowed in the proposed zoning classification.

FMC 19.92.045(D): *For amendments requiring comprehensive plan amendments,*
that there are changed conditions since the previous zoning, title adoption or title
amendment to warrant the proposed amendment; and

7. The properties have been subjected to a change in circumstances since the
adoption of the CMU designation in 2007 that warrant the proposed rezone for the
reasons identified in Finding of Fact No. 5.

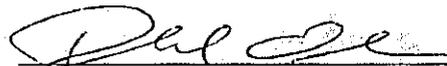
FMC 19.92.045(E): *The proposed amendment will promote, rather than*
detract, from the public health, safety, morals and general welfare.

1 8. As determined in Finding of Fact No. 4 and 5, there are no adverse impacts
2 associated with the proposal and the rezone would maximize the economic use of the
3 property and make it fully compatible with adjoining uses. For these reasons, the
4 proposal will promote, rather than detract, from public health, safety, morals and
5 general welfare.

6 **DECISION**

7 It is recommended that the City Council approve RE14-0001, a requested rezone of
8 two parcels from CMU to I.

9 Dated this 8th day of May, 2015.

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11 Phil A. Olbrechts

12 City of Fife Hearing Examiner
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Panattoni Parcel Rezone

Exhibit B

