

## ORDINANCE NO. 477

**AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, APPROVING A ZONE RECLASSIFICATION AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY REZONING FROM R-6 RESIDENTIAL – 6 UNITS PER ACRE TO P – PUBLIC PARK/OPEN SPACE PROPERTY LOCATED SOUTH OF NE 190<sup>TH</sup> PLACE OWNED BY THE CITY OF WOODINVILLE; PROVIDING FOR SEVERABILITY, SUMMARY PUBLICATION, AND AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Woodinville is the owner of certain property (Parcel No. 9516500300) located south of NE 190<sup>th</sup> Place; and

**WHEREAS**, the City of Woodinville Development Services Department submitted an application on June 27, 2008 for a site specific zone reclassification for the property from R-6, Residential – 6 units per acre, to P-Public Parks/Open Space, the current Comprehensive Plan designation; and

**WHEREAS**, the City conducted the required environmental review under the State Environmental Policy Act (SEPA); and

**WHEREAS**, the City Hearing Examiner held an Open Record Hearing on the proposed site specific rezone request on October 13, 2008, and forwarded his recommendation of approval to the City Council; and

**WHEREAS**, the City Council has received and reviewed the Hearing Examiner's findings, conclusions and recommendation set forth in Attachment 1 hereto, and has determined them to be well considered and appropriate;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Findings.** The City Council hereby adopts the findings conclusions, and recommendation of the Hearing Examiner set forth in Attachment 1, attached hereto and incorporated herein by this reference as if set forth in full.

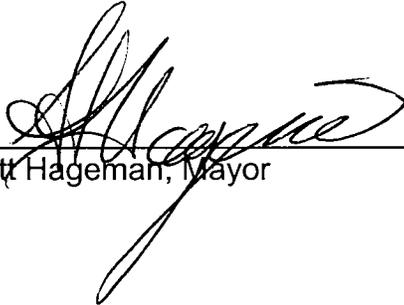
**Section 2.** The City's official zoning map is hereby amended to rezone the property (Parcel No. 95165300) located south of NE 190<sup>th</sup> Place with the P – Public Parks/Open Space designation as set forth in Attachment 2, attached hereto and incorporated herein by this reference as if set forth in full.

**Section 3.** The Development Services Director is hereby authorized and directed to make the necessary changes to the City's zoning map as set for in this ordinance.

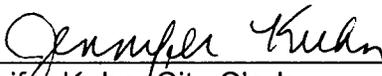
**Section 4. Severability.** If any section, sentence, clause or phase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 5. Effective Date.** This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

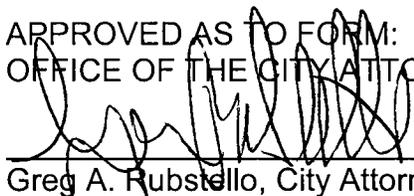
**ADOPTED BY THE CITY COUNCIL AND SIGNED INTO AUTHENTICATION OF ITS PASSAGE THIS 3<sup>rd</sup> DAY OF FEBRUARY 2009.**

  
\_\_\_\_\_  
Scott Hageman, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Jennifer Kuhn, City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

  
\_\_\_\_\_  
Greg A. Rubstello, City Attorney

PASSED BY THE CITY COUNCIL: 2-3-2009  
PUBLISHED: 2-9-2009  
EFFECTIVE DATE: 2-17-2009  
ORDINANCE NO.: 477

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF WOODINVILLE**

**RECEIVED**

OCT 28 2008

In the Matter of the Application of	)	ZMA 08002
	)	
<b>City of Woodinville</b>	)	
	)	
	)	FINDINGS, CONCLUSIONS,
<u>For a Approval of a Zone Reclassification</u>	)	AND RECOMMENDATION

CITY OF WOODINVILLE  
DEVELOPMENT SERVICES

**SUMMARY OF RECOMMENDATION**

The Hearing Examiner recommends that a zone reclassification from R-6 Moderate Residential to P Parks for property located at the northernmost point of NE 190<sup>th</sup> Place between 132<sup>nd</sup> Avenue NE and 136<sup>th</sup> Avenue NE, in Woodinville, Washington, be **GRANTED**.

**SUMMARY OF RECORD**

Request:

The City of Woodinville requests a zone reclassification from R-6 Moderate Residential to P Parks for property located at the northernmost point of NE 190<sup>th</sup> Place between 132<sup>nd</sup> Avenue NE and 136<sup>th</sup> Avenue NE, in Woodinville, Washington.

Hearing Date:

The City of Woodinville Hearing Examiner held an open record hearing on the request on October 13, 2008.

Testimony:

The following individuals presented testimony under oath:<sup>1</sup>

Ray Sturtz, City Development Services Department  
Deb Bradley

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated September 9, 2008
2. Rezone Application, dated June 27, 2008
3. SEPA Environmental Checklist, dated June 27, 2008
4. Notice of Application, dated July 21, 2008
5. SEPA Determination of Nonsignificance, dated July 21, 2008

<sup>1</sup> Mr. Sturtz acted as the representative of both the City Development Services Department and the Applicant City of Woodinville. The Hearing Examiner recommends that the City provide separate representatives when reviewing City applications in the future to avoid any appearance of any conflict of interest, but notes there was no such conflict for this application.

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6. Applicant letter, undated
7. Notice of Public Hearing, dated September 15, 2008
8. Affidavit of posting of Notice of Application, dated July 29, 2008
9. Notice of Application and Determination of Nonsignificance, *The Woodinville Weekly*, dated July 21, 2008
10. Agency and Surrounding Property Owners Distribution List
11. Legal Description
12. PowerPoint Presentation Slides, dated October 13, 2008
13. Notice of Determination of Nonsignificance, dated May 26, 2008
14. Letter to Resident from Debra Crawford, City Environmental Planner, dated October 10, 2008
15. Notice of Public Hearing, dated September 15, 2008 (duplicate of Exhibit 7)

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

#### FINDINGS

1. The City of Woodinville (Applicant) requests a zone reclassification (rezone) from R-6 Moderate Residential to P Parks for property located at the northernmost point of NE 190<sup>th</sup> Place between 132<sup>nd</sup> Avenue NE and 136<sup>th</sup> Avenue NE, in Woodinville, Washington.<sup>2</sup> The City of Woodinville owns the 0.968-acre property, which is located within the City's Wedge Neighborhood. *Exhibit 1, Staff Report, pages 1 – 2; Exhibit 2.*
2. The City of Woodinville Development Services Department (City Development Services) determined the application was complete on July 11, 2008. *Exhibit 4.* City Development Services mailed notice of the application to agencies and owners of property within 500 feet of the subject property on July 21, 2008. *Exhibit 4; Exhibit 10.* City Development Services posted notice of the application on the subject property and published notice of the application in *The Woodinville Weekly* on July 21, 2008. *Exhibit 8; Exhibit 9.* City Development Services mailed notice of the public hearing associated with the application to agencies and owners of property within 500-feet of the subject property on September 15, 2008. *Exhibit 7; Exhibit 15.* Ray Sturtz, City Planning Manager, testified that City Development Services posted notice of the public hearing on the subject property and published notice of the hearing in compliance with City of Woodinville ordinances. *Testimony of Mr. Sturtz.*
3. The City of Woodinville, through SEPA Responsible Official Hal H. Hart, City Development Services Director, acted as lead agency and analyzed the environmental impact of the proposed rezone, as required by the State Environmental Policy Act (SEPA). The City determined that the proposal would not have a probable significant

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<sup>2</sup> The property is identified by tax parcel number 951650030004. *Exhibit 2.* A legal description is provided in Exhibit 11. *Exhibit 11.*

adverse impact on the environment, and issued a Determination of Nonsignificance (DNS) on July 21, 2008. Mr. Sturtz testified that the City received no appeals of the DNS prior to the expiration of the appeal period. *Exhibit 5; Testimony of Mr. Sturtz.*

4. Mr. Sturtz testified that the subject property is designated Open Space by the City of Woodinville Comprehensive Plan (Comprehensive Plan). According to the Comprehensive Plan Land Use Element, the Open Space designation is applied to all open space tracts within the City that have been retained as open space areas, and these areas may be suitable for passive or active recreation development such as neighborhood parks. *Comprehensive Plan Land Use, Chapter 3, page 11 (December 2006).* Comprehensive Plan goals and policies provide for quality parks and open space for City citizens and visitors, and encourage the creation and preservation of a variety of open space to maintain and enhance quality of life. *Comprehensive Plan, Parks and Recreation Element, Chapter 7, Goal PRO-1 and Goal PRO-3, pages 1 - 2 (December 2002).* Community Design Policy CD-2.2 encourages native vegetation as a necessary component in the aesthetics and environmental quality of residential, industrial, and commercial areas. *Comprehensive Plan Community Design Element, Chapter 8, page 2 (December 2002).* Comprehensive Plan Environmental Policies ENV-3.1 and ENV-3.4 encourage preservation of the urban forest and maintaining critical area connectivity. *Comprehensive Plan, Environmental Element, Chapter 12, page 2 (December 2002).* Mr. Sturtz testified that the proposed rezone would provide the opportunity for a neighborhood park within the City, consistent with City Transportation, Non-motorized, and Trails Plans. *Testimony of Mr. Sturtz.*
5. The purpose of the City's R-6 Moderate Residential zoning district is to implement Comprehensive Plan Goals and Policies for housing quality, diversity and affordability, and to efficiently use residential land, public services, and energy by providing for a mix of predominantly single-family attached and detached dwelling units. Other development types are allowed if they contribute to the City's small town atmosphere as articulated in the Comprehensive Plan vision statement.<sup>3</sup> *Woodinville Municipal Code (WMC) 21.04.080.*
6. The purpose of the City's Park (P) zoning district is to provide opportunities for public parks and other recreation facilities, such as playgrounds, trails, publicly accessible open space, or as meet the definition of parks in WMC 21.06.428. *WMC 21.04.150.* Only public parks or recreational facilities shall be allowed to locate in the Park zone. *WMC 21.08.020(9).*

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<sup>3</sup> City Council and City Planning Commission members drafted the following vision statement upon review of all individual comments made during the visioning process: "In the year 2015, Woodinville is a safe, friendly, family-oriented community that supports a successful balance of neighborhoods, parks and recreation, tourism, and business. We have preserved our Northwest woodland character, our open space, and our clean environment. We have enhanced our ability to move freely throughout the community by all modes of travel. Woodinville is a pleasant place in which to live, work, play, and visit, with a compact, inviting downtown that is attractive and functional." *Comprehensive Plan, Introduction, Chapter 1, Section 1.5.1.2, page 6 (December 2002).*

7. The purpose of the zoning code includes the harmonious grouping of compatible and complementary land uses and the implementation of Comprehensive Plan goals and policies. *WMC 21.02.030.*<sup>4</sup>
8. The subject property is located within the City's Wedge Neighborhood. The property is currently vegetated open space. Adjacent property to the south is located within the Sunwood Natural Growth Protection Easement (NGPE). The City staff report states that a small portion of the Sunwood NGPE falls within the southeast portion of the subject property. Adjacent property in all other directions is located within the City's R-6 Moderate Residential zoning district. *Exhibit 1, Staff Report, Figure 1 and pages 5 - 6; Exhibit 12.*
9. Access to the subject property is through NE 190<sup>th</sup> Place. Mr. Sturtz testified that there are no pocket parks or neighborhood parks near to the subject property, and that the nearest park is Rotary Park, located four to five blocks to the north near the high school. Mr. Sturtz testified that the subject property is surrounded by residential development to the north, west, and east, and that residential development also surrounds the Sunwood NGPE adjacent to the south of the subject property. *Exhibit 1, Staff Report, Figure 1; Testimony of Mr. Sturtz.*
10. Deb Bradley, a resident of 13522 NE 190<sup>th</sup> Place, testified to inquire of the City's future plans for use of the subject property. Ms. Bradley cited the notice of the SEPA DNS determination for the subject property published by the City, signs that had been posted on the subject property, and a letter sent to residents by the City requesting that yard waste not be dumped in a wetland area adjacent to homes, which the letter described as one of the last wetland reserves in the City. Ms. Bradley inquired whether the property would continue to be posted as "no trespassing." Mr. Sturtz responded that the parcel adjacent to the south of the subject property contains wetlands, but no wetland or wetland buffer delineation has been performed for the subject property. The County staff report states that should any park development occur on the subject property in the future, development would need to comply with City critical areas development standards, as applicable. Mr. Sturtz testified that the City has no development plans for the subject property at this time, and that the City's immediate intent for the subject property is to retain the property as open space. Mr. Sturtz stated that the previous owners of the subject property posted "no trespassing" signs to dissuade illegal dumping on the

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<sup>4</sup> The general purposes of this title are: (1) To encourage land use decision making in accordance with the public interest and applicable laws of the State of Washington; (2) To protect the general public health, safety, and welfare; (3) To implement the City of Woodinville Comprehensive Plan's goals and policies through land use regulations; (4) To provide for the economic, social, and aesthetic advantages of orderly development through harmonious groupings of compatible and complementary land uses and the application of appropriate development standards; (5) To provide for adequate public facilities and services in conjunction with development; and (6) To promote general public safety by regulating development of lands containing physical hazards and to minimize the adverse environmental impacts of development. *WMC 21.02.030.*

property. *Exhibit 1, Staff Report, page 6; Exhibit 13; Exhibit 14; Exhibit 15; Testimony of Ms. Bradley; Testimony of Mr. Sturtz.*

## CONCLUSIONS

### Jurisdiction

The City of Woodinville Hearing Examiner is authorized to hear zone reclassification requests and make a recommendation on the request to the City Council. *Woodinville Municipal Code (WMC) 2.27.030; WMC 17.07.030; WMC 21.02.090; WMC 21.42.110(2).*

### Criteria for Review

City code requires that a zone reclassification shall be granted only if the Applicant demonstrates that the proposal is consistent with the Comprehensive Plan and applicable functional plans at the time the application for such zone reclassification is submitted, and complies with the following criteria:

- (1) There is a demonstrated need for additional zoning as the type proposed.
- (2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.
- (3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

*WMC 21.44.070.*

In addition to the rezone criteria provided in the City code, Washington state courts apply the following general rules to rezone applications:

- (1) There is no presumption of validity favoring the action of rezoning;
- (2) The proponents of the rezone have the burden of proof in demonstrating that conditions have substantially changed since the original zoning; and
- (3) The rezone must bear a substantial relationship to the public health, safety, morals or welfare.

*Parkridge v. Seattle*, 89 Wn.2d 454 (1978).

Proof of changed circumstances are not required for a rezone if the proposed rezone and associated development implement policies contained in the comprehensive plan. *Bjarnson v. Kitsap County*, 78 Wn. App. 840 (Div. I, 1995); *Henderson v. Kittitas County*, 124 Wn. App. 747 (Div. III, 2004). Only general conformance with a comprehensive plan is required. *Woods v. Kittitas County*, 130 Wn. App. 573 (Div. III, 2005).

### Conclusion Based on Findings

- A. **The proposed zone reclassification would comply with the approval criteria provided in Woodinville Municipal (WMC) Code 21.44.070.** The City provided notice of the zone reclassification application and associated open record hearing. The requested zone reclassification would result in a zoning classification of the subject property consistent with the property's current Open Space Comprehensive Plan

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designation. The Applicant has no plan for development of the subject property at this time. The Applicant's immediate intent for the subject property is to retain the property as open space. The zone reclassification would allow for retaining the property as open space or use of the property as a neighborhood park, consistent with Comprehensive Plan goals and policies. *Findings 1, 2, 10.*

1. **There is a demonstrated need for additional zoning of the type proposed.** The City Council has approved an Open Space Comprehensive Plan designation for the subject property. The requested zone reclassification would result in a zoning classification of the subject property consistent with the property's current Comprehensive Plan designation. There are no pocket parks or neighborhood parks in the vicinity of the subject property; the closest park to the subject property is located four to five blocks to the north of the subject property. The requested Park (P) zone would provide opportunities for public parks and publicly accessible open space, consistent with the Comprehensive Plan designation of the subject property. With the zone reclassification, the portion of the Sunwood NGPE located within the subject property would be reclassified from R-6 Moderate Residential to P Parks. *Findings 1, 4, 6, 8, 10.*
2. **The zone reclassification would be consistent and compatible with uses and zoning of the surrounding properties.** The property would be accessed by NE 190<sup>th</sup> Place, located adjacent to the north of the subject property. The property is adjacent to the Sunwood NGPE to the south and to residential development in all other directions. The property is currently vegetated open space. Under the current R-6 Moderate Residential zone, development of the property would be generally limited to residential development. The P Parks zone would allow for retention of the property as open space or use of the property as a neighborhood park. *Findings 1, 3 – 8.*
3. **The property is practically and physically suited for the uses allowed in the proposed zone reclassification.** The subject property is currently vegetated open space, located adjacent to NE 190<sup>th</sup> Place. The City reviewed the environmental impacts of the rezone request and determined that the zone reclassification would not result in a probable significant adverse impact on the environment. *Findings 1, 3, 8.*

- B. The proposed zone reclassification would comply with the general approval criteria prescribed by Washington state case law.** Proof of changed circumstances is not required for a rezone if the proposed rezone and associated development implement policies contained in the comprehensive plan. Here, the City Council approved the property's Open Space Comprehensive Plan designation. Approval of the zone reclassification request would amend the zoning classification to be consistent with the current Comprehensive Plan designation. The zone reclassification would allow for

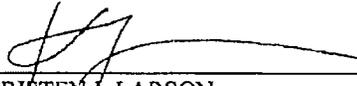
retention of the property as open space or use of the property as a neighborhood park, consistent with Comprehensive Plan goals and policies.

The requested rezone bears a substantial relationship to the public health, safety, morals or welfare. The City analyzed the environmental impacts of the requested rezone and determined that granting the rezone would not have a probable significant adverse impact on the environment. The City issued a Determination of Non-Significance (DNS) on July 21, 2008. The City has no development plans for the subject property at this time.  
*Findings 1, 3, 4, 6, 10.*

#### RECOMMENDATION

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that a zone reclassification from R-6 Moderate Residential to P Parks for property located at the northernmost point of NE 190<sup>th</sup> Place between 132<sup>nd</sup> Avenue NE and 136<sup>th</sup> Avenue NE, in Woodinville, Washington, be **GRANTED**.

Decided this 27<sup>th</sup> day of October 2008.

  
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KRISTEN J. LARSON  
Hearing Examiner

