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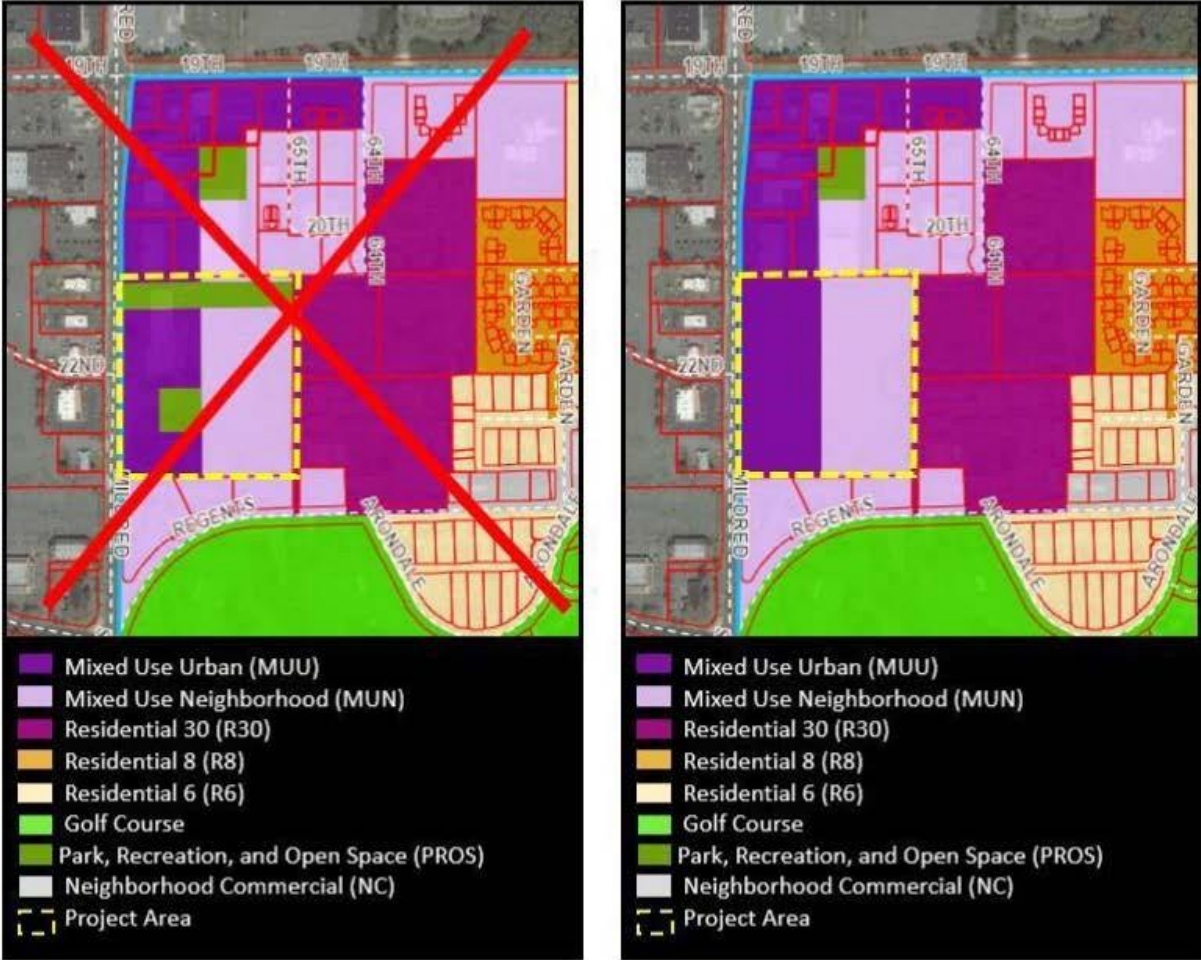


Figure 1 – Copied from Applicant’s Application, Ex. 1, p. 10.

Testimony

A summary of hearing testimony is appended as Appendix A. The summary is provided for the convenience of the reader only and should not be construed as a part of this decision.

Exhibits

The October 6, 2022 staff report along with its four attachments were admitted as Exhibit 1 during

1 the hearing. In addition, an October 10, 2022 email exchange between the Examiner and Ms.
2 Westman regarding the comprehensive plan map designations of the project site was admitted as
3 Exhibit 2. A memorandum from Garrett Hodgins to the Examiner dated October 11, 2022 was
4 admitted as Exhibit 3.

5 **FINDINGS OF FACT**

6 **Procedural:**

7 1. Applicant. Garrett Hodgins, Alliance Residential Company | Pacific Northwest, 1900 N
8 Northlake Way, Suite 237, Seattle, WA 98103, ghodgins@allresco.com.

9 2. Hearing. A hearing was held on the application at 3:00 pm on October 10, 2022 in the City
10 of Fircrest Council Chambers.

11 3. Project Description. Alliance requests a rezone of portions of a 9.5-acre parcel located at 219
12 Mildred Street West. Specifically, Alliance seeks to rezone the portions of that parcel zoned Park,
13 Recreation, and Open Space (PROS) to Mixed-Use Urban (MUU) and Mixed-Use Neighborhood
14 (MUN). The proposed rezone is depicted in Figure 1 above. The purpose of the rezone is to free up
15 the location of open space for a mixed-use proposal that will encompass the entire parcel. A
16 proposed zoning code text amendment subjects development of the parcel to a 10% open space
17 requirement, which approximates the amount of open space that would be required if the PROS
18 designations were kept in place.

19 4. Surrounding Uses. The project is surrounded by multifamily use to the north and office and
20 retail on the remaining sides.

21 5. Adverse Impacts. There are no significant adverse impacts associated with the proposal.
22 Proposed text amendments will assure that the amount of open space that would otherwise be
23 required under the current PROS zoning designation will still be required in large integrated areas
24 while giving the developer the flexibility to provide for maximum integration into its proposed mixed
25 use development project. In point of fact, the amount of open space could theoretically be less if the
26 rezone is not approved, since the PROS zone authorizes limited development. According to staff
testimony, the rezone in conjunction with the 10% text amendment will not result in any increase in
demand upon infrastructure or public services since the uses authorized at the project site will not
change. According to the Applicant, the rezone will also facilitate more effective and less
topographically disruptive street connections.

27 **Conclusions of Law**

28 1. Authority. Zoning map amendments qualify as Type III-B review pursuant to FMC
29 22.05.003 Table A. As outlined in RMC 22.05.003 Table B, the Hearing Examiner is authorized to

1 hold hearings and make a recommendation to the City Council for final approval after City Council
2 closed record review.

3 2. Zoning/Comprehensive Plan. As shown in Figure 1 above, the project site is divided into
4 three separate zoning classifications – MUU, MUN and PROS. The comprehensive plan map
5 designation for the site is mixed use.

6 3. Review Criteria/Street and Parking Modification. FMC 22.78.002 provides that zoning map
7 amendments are subject to the procedures of Chapter 22.78 FMC. FMC 22.78.004 sets out the
8 review criteria for zoning map amendments. The criteria designated by FMC 22.78.004 below are
9 quoted in italics and applied through corresponding conclusions of law.

10 **FMC 22.78.004(a):** *The proposed amendment is consistent with the goals, objectives and policies of*
11 *the comprehensive plan.*

12 4. The criterion is met. The currently existing PROS designation is inconsistent with the City's
13 comprehensive plan map mixed use designation as mapped in Figure LU-1, page LU-30 of the City's
14 comprehensive plan. The rezone is necessary to remove this inconsistency. The proposed MUU and
15 MUN zoning classifications are implementing zones for the mixed-use comprehensive plan map
16 designation and are thus consistent with the comprehensive plan. See Table LU-1 of comp plan. The
17 PROS zone is not listed in Table LU-1 as an implementing zone of the mixed-use designation and is
18 thus inconsistent with the mixed-use designation. Consequently, the proposed rezone is arguably
19 mandated by RCW 36.70A.120, which requires that cities shall perform their activities in conformity
20 with its comprehensive plan. The proposal is also consistent with the comprehensive plan for the
21 reasons identified at Page 18-19 of the Zoning Map Application, Att. 1 to the staff report.

22 **FMC 22.78.004(b):** *The proposed amendment will promote, rather than detract from, the public*
23 *health, safety, morals and general welfare.*

24 5. The criterion is met. As noted in Finding of Fact No. 5, there are no significant adverse
25 impacts associated with the project. Overall, the amendment will provide for more flexibility in the
26 location of open space while not reducing the amount required. In point of fact, some minimal
development is authorized in the PROS zone so the amount of protected open space is increased due to
the approved text amendments. The added flexibility of the rezone will enable the Applicant to
provide for enhanced integration and a more centralized location of open space, which likely will
provide significant aesthetic and functional public benefit. Overall, the proposed amendment, in
conjunction with the approved text amendment, will significantly promote public health, safety, and
welfare.

FMC 22.78.004 (c): *The proposed zoning is compatible with the uses and zoning of surrounding*
property (required only for zoning map amendments).

6. The criterion is met. The mixed-use development reflects the mix of uses surrounding the
project site as identified in Finding of Fact No. 4.

1 **FMC 22.78.004 (d):** *The property is suited for the uses allowed in the proposed zoning classification*
2 *(required only for zoning map amendments).*

3 7. The large size of the project site and its location in an area served by major thoroughfares in a
4 mixed-use area such as Regents Blvd and Mildred Street make the proposal ideally suited for a large-
scale mixed-use development.

5 **FMC 22.78.004 (e):** *A change of conditions has occurred within the neighborhood or community*
6 *since adoption of the comprehensive plan, this title, and amendments thereto, to warrant a*
7 *determination that the proposed amendment is in the public interest (required only for zoning map*
8 *amendments and amendments to this title which require a comprehensive plan amendment to ensure*
9 *consistency under subsection (a) of this section).*

10 8. The criterion above is not applicable because no amendments to the comprehensive plan are
11 necessary to approve the rezone. In point of fact, the rezone is arguably necessary to remove the
12 inconsistencies between the PROS zoning classification and the underlying mixed use comprehensive
13 plan map designation. Consistent with the language of the criterion above, case law provides that if a
14 rezone implements a comprehensive plan (in this case by removing the PROS inconsistency), no
15 change in circumstances needs to be established. *See Ahmann-Yamane, LLC v. Tabler*, 105 Wn. App.
16 103, 112 (2001).


17 **FMC 22.78.004 (f):** *Except for the extension of existing district boundaries, no change in any use*
18 *district, classification or official zoning map shall be considered if it contains fewer than one acre,*
19 *excluding public streets or alley rights-of-way.*

20 9. The criterion is met. The elimination of the PROS districts can be considered an extension of
21 the boundaries of the surrounding zone boundaries.

22 **DECISION**

23 It is recommended that the City Council approve Rezone Application File No. 22-04 for the reasons
24 identified in the conclusions of law above, contingent upon approval of a concurrently proposed text
25 amendment requiring retention of 10% open space.

26 DATED this 18th day of October 2022.

27 
28 Phil A. Olbrechts

29 City of Fircrest Hearing Examiner