

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
RECOMMENDATION in the matter of the Rezone of a Parcel of Real
Property.**

HEARING DATE: December 5, 2016
DECISION DATE: December 14, 2016
RE: Higgins Rezone, PL16-056

APPLICATION DATE: May 5, 2016
DECISION SUMMARY: Recommendation to Approve
PROPERTY OWNER: Estate of Gene Higgins

PROJECT PROPONENT: Larry Higgins

DESCRIPTION OF PROPOSAL: Rezone of parcel of property from P to R-1, 4.0.

I. FINDINGS OF FACT

This matter came before the Mount Vernon hearing examiner for public hearing and recommendation to the City Council on the application by the property owner to rezone the subject property from Public to Single- Family Residential with a maximum density of 4.54 dwelling units per acre (R-1, 4.0).

In addition to the Mount Vernon Municipal Code, Comprehensive Plan, and records maintained by the Skagit County Auditor and Skagit County Assessor, those documents identified in the attached Exhibit List were admitted and considered by the hearing examiner.

The hearing examiner makes the following Findings of Fact based upon consideration of the exhibits admitted herein, and evidence presented at the public hearing. To the extent that any finding of fact is more properly characterized as a conclusion of law, or vice versa, the hearing examiner adopts it as such:

A. Project Overview.

1. **Project Location and Ownership.** According to records maintained by the Skagit County Auditor, Gene Higgins is the owner of approximately 3.5 acres identified by the

Skagit County Auditor as Parcel No. P27079. The property is located on the north side of East Division Street with Sioux Drive offsite to the east and North 30th Street offsite to the west. The property is depicted on the following map (NTS):



2. The staff report recommends that the hearing examiner also recommend that the city council approve the rezone.
3. **Zoning.** Parcel No. P27079 is currently zoned Public (P). The comprehensive plan designation for the parcel is Single-Family Medium Density (SF-MED).
4. **Existing Use.** Parcel No. P27079 is undeveloped.
5. **Project Description.** The applicants propose to have the parcel rezoned, to bring the parcel into compliance with the Mount Vernon Comprehensive Plan. At hearing, the applicants stated they anticipate that at some time in the future the parcel will be developed with a residential subdivision. The applicants further state that it is their intent to sell the parcel to someone that wishes to make those improvements. At the present time, the applicants are not proposing a development.

B. Public Notice

6. On November 15, 2016 a Notice of Application, Proposed Determination of Non-significance, and Notice of Public Hearing was issued by staff.
7. On November 16, 2016 the Notice of Application, Proposed Determination of Non-significance, and Notice of Public Hearing was mailed to all properties within 300 feet of the project site. The notice invited written comments, and advised of the date and time of a public hearing on the proposal.
8. On November 18, 2016 the Notice of Application & Public Hearing was published in the City's newspaper of record, the Skagit Valley Herald.
9. On November 18, 2016 the subject site was posted with a Land Use sign.

C. Public Participation.

10. No comments were received by the City in response to the Notice of Application.
11. An open record hearing was held before the hearing examiner on December 5, 2016 at the time and location identified in the Notice of Application. Bruce Lisser and Larry Higgins testified on behalf of the applicant. Karen Peterson, Patricia Wicksnin, and Richard Wicksnin provided public testimony.

D. Traffic.

12. No additional vehicular traffic will result from the proposed rezone. Traffic patterns will not be altered by the rezone. The number of dwelling units that would be allowed under R-1, 4.0 zoning is unlikely to significantly increase traffic to the point that development would be unfeasible.

E. Utilities.

13. The number of dwelling units that would be allowed under R-1, 4.0 zoning is unlikely to have a detrimental impact on available utilities, including sanitary sewer, storm sewer, and water such that development would be unfeasible.

F. Public Services.

14. The number of dwelling units that would be allowed under R-1, 4.0 zoning, and the resulting population increase is unlikely to have a detrimental impact on public services, including police, fire, schools, and parks and recreation such that development would be unfeasible.

G. SEPA.

15. Pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, on November 15, 2016, the City of Mount Vernon issued a Determination of Non-Significance. No comments were received.

Based upon the foregoing Findings of Fact, the hearing examiner makes the following,

II. CONCLUSIONS OF LAW

To the extent that any conclusion of law is more properly characterized as a finding of fact, the hearing examiner adopts it as such:

A. Notification

1. Pursuant to Section 17.111.010 and .060 MVMC, a public hearing before the hearing examiner is required for site specific amendments to the zoning classification of any property within the city. The content of public notices is established in MVMC §§ 17.111.060 and Chapter 14.05. The notice of application & public hearing notice distributed by the City comply with the content requirements of MVMC §§ 17.111.060 and 14.05.150 (A)(2).
2. Notice distribution requirements are established in MVMC § 14.05.150 (A)(3), which provides that notice is to be provided (1) by publication in the newspaper of record; (2) by posting a land use notice board in a conspicuous location on each public street frontage bordering the subject property and visible by members of the public; and (3) by mail. The hearing examiner concludes that appropriate notice was provided. The City properly distributed notices as set forth in the municipal code.

B. Public Hearing

3. An open public hearing was conducted by the hearing examiner in this matter, at which time opportunity was provided for all comments to be heard by the hearing examiner, and which conformed with standard protocols to ensure that due process was provided to all participants.

C. Review

4. **GMA.** Pursuant to RCW 36.70A.040, Skagit County, and the cities and towns within Skagit County, are obligated to comply with Chapter 36.70A RCW, Washington's Growth Management Act ("GMA").

5. **Comprehensive Plan.** Also pursuant to RCW 36.70A.040, the City of Mount Vernon was obligated to adopt a comprehensive land use plan, and development regulations that are consistent with the comprehensive plan. The GMA establishes the primacy of the comprehensive plan, and provides that development regulations must implement the comprehensive plan.
6. **Definition of Development Regulations.** The term “development regulations” is defined by RCW 36.70A.030 to include zoning regulations.
7. **Criteria.** Pursuant to MVMC 17.111.070, in considering a reclassification, the hearing examiner is instructed to “consider, among other questions, the following:
 - A. Is the request compatible with the city’s comprehensive plan and development goals?
 - B. Are public utilities, public facilities and other services currently adequate to serve the proposed district?
8. **Compatibility with Comprehensive Plan.** Public zoning is not compatible with the City’s comprehensive plan designation of Single-Family Medium Density. A rezone to R-1, 4.0 would bring the zoning for the parcel into compliance with the City’s comprehensive plan.
9. **Compatibility with Comprehensive Plan.** Consistent with the Mount Vernon Comprehensive Plan, the intent of the Single-Family Medium Density designation is to provide for single-family residential housing in neighborhoods of varying densities. The two zoning districts associated with this designation are the R-1, 4.0 that mandates a 7,500 square foot minimum lot size and the R-1, 3.0 that mandates a 9,000 square foot minimum lot size.
10. **Compatibility with Development Goals.** The hearing examiner is unaware of any Goals, Objectives and Policies from the City’s Comprehensive Plan that the proposed action is inconsistent with. The hearing examiner concludes that the proposed action is consistent with the following Goals, Objectives and Policies from the City’s Comprehensive Plan:

Policy LU-1.1.6 Encourage infill development on vacant properties with existing public services and public utilities.

GOAL LU-2 Provide for Orderly Development Within the City of Mount Vernon that is Consistent with Adopted Plans and Development Regulations.

OBJECTIVE LU-2.1 Implement the Comprehensive Plan Land Use Map.
11. **Police and Fire.** The Fire Department will impose construction requirements for any development the property owner may pursue following rezone. In accordance with the

Mount Vernon municipal code, any project applicant will be required to pay fire impact fees to the City of Mount Vernon as part of the building permit process should the owner choose to develop this property following the subject rezone.

12. **Recreation/Schools.** Park and school impact fees will be assessed prior to building permits authorizing construction on the subject site should the property owner choose to subdivide and/or build on this site.
13. **Storm water.** The applicant will be required to demonstrate compliance with state and local stormwater regulations, including (but not limited to) providing quality and quantity controls for impervious surfaces that could be proposed following the subject rezone.
14. **Water.** The applicant will be required to verify water availability should future development be proposed. The City of Mount Vernon is not the water purveyor within the City's corporate boundaries; as such, water availability will be determined by the Skagit Public Utility District #1.
15. **Sewer.** The City of Mount Vernon Wastewater Treatment Plant has sufficient capacity to treat the effluent from future development of this site for single-family residential uses. Any relocation, extension or connection of utilities will be done at the owner's expense.
16. **Streets.** Should the property owner choose to develop this property after this rezone is completed they will be required to comply with the City's traffic concurrency requirements that could include mitigation measures for traffic related impacts.

Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing examiner makes the following Recommendation:

RECOMMENDATION

That the Mount Vernon City Council APPROVE the Higgins Rezone, File No. PL16-106, subject to compliance with the standards of the Mount Vernon Municipal Code, and adopt an ordinance to that effect.

RECOMMENDATION MADE this 14th day of December 2016.

Mount Vernon Hearing Examiner



Scott G. Thomas

EXHIBIT LIST

Exhibit A: Master Land Use Application

Exhibit B: Project Narrative and Mapping from the Applicant

Exhibit C: City notices and associated information