

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**EXHIBIT "A"**  
**BEFORE THE HEARING EXAMINER FOR THE CITY OF AUBURN**

Emily Terrell, Hearing Examiner

RE: The Keimig Associates  REZ15-0005	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION</b>
---	--

**INTRODUCTION**

The Applicant has requested a rezone of a 7,500sf parcel from R7, Residential Zone to DUC, Downtown Urban Center. The parcel is located at 307 D Street. The rezone is necessary to make the Zoning Map designation consistent with the underlying DUC, Downtntown Urban Center Comprehensive Plan Land Use Map designation for the parcel. Approval of the rezone is recommended to provide for consistency between the Comprehensive Plan Land Use Map and the Zoning Map.

**TESTIMONY**

Thaniel Gouk, senior planner, summarized the proposal.

Neil Eugenio, of the Keimig Associates stated the proposal was a straightforward rezone that implemented the Comprehensive Plan. The home will be converted to a professional office. There are already other office and commercial uses in the area. The business will generate very little traffic. They will take care of the yardwork. They had considered converting the office via a home occupation, but the rezone makes more sense.

Alan Keimig, of the Keimig Associates, stated the business will be low impact. He has considered living in the existing home. He's been an Auburn resident for many decades and owned a businessin Auburn for most of that time.

**EXHIBITS**

Exhibits 1-11 identified in the Exhibit List at page 16 of the December 12, 2017 staff report, were admitted into the record during the December 20, 2017 public hearing.

## FINDINGS OF FACT

### Procedural:

1. Applicant. The Applicant is Alan Keimig.
2. Hearing. A hearing on the application was held on December 20, 2017 at 5:30 p.m. at the City Council chambers at Auburn City Hall.

### Substantive:

3. Site/Proposal Description. The Applicant has requested a rezone of a 7,500sf parcel from R7, Residential Zone to DUC, Downtown Urban Center. The parcel is located at 307 D Street. The project site is currently single family residential. As indicated by the Applicant at hearing, the rezone will convert an existing single-family home into an architectural office. Professional offices are allowed in the DUC zone. The Comprehensive Plan Land Use Designation for the parcel is Downtown Urban Center.

The site is 50 feet wide by 150 feet deep. The Site has an existing driveway off of 'D' St. SE which is proposed to remain and serve as the required ADA accessible parking stall for the future professional office as well as provide one additional stall in the driveway or garage. Three off-street parking stalls will also be provided from the alley and an additional on-street parking stall will also be available on 'D' St. SE, pursuant to ACC 18.29.060(H)(5). There will be a total of 6 parking stalls to meet the minimum required. The Applicant requested and was granted a deviation by the City Engineer from the Public Works Design Standards that requires a project to take access only from the lower-classification roadway (the alley in this case) as well as allowing the parking stalls in the rear to be less than 40 ft. from the right-of-way.

4. Characteristics of the Area: The neighborhood is characterized by predominantly single-family homes along D St. SE. However, there is an existing professional office (dental office) two lots south at the corner of D St. SE and 4th St. SE and an apartment complex at the D St. SE and 2nd St. SE intersection. The properties to the west, across the alley, are commercial, including a Burger King drive-through directly behind the site.

5. Adverse Impacts. There are no significant adverse impacts associated with the proposal. Compatibility with adjoining land uses is the only issue of concern at this stage of project review. Properties immediately adjacent to the subject on the north, south and east are zoned R7 residential and are developed as single-family homes. However, there are higher intensity uses within a block of the subject. Properties to the west of the subject are zoned Downtown Urban Center. The subject will be a low impact professional office with a small staff and limited daily visits from clientele. The external appearance of the existing residential structure will not be significantly altered. The Comprehensive Plan Land Use Designation is Downtown Urban Center and it is

likely homes in the community will become commercial or office in nature as implementation of the Comprehensive Plan. No compatibility problems are reasonably apparent from the administrative record.

## CONCLUSIONS OF LAW

### Procedural:

1. Authority of Hearing Examiner. ACC 18.68.030(B)(1)(a) grants the Hearing Examiner with the authority to review and make a recommendation on rezone requests to the City Council if the Planning Director determines that the rezone requests are consistent with the Comprehensive Plan. The Planning Director has determined that the rezone request is consistent with the Comprehensive Plan.

### Substantive:

2. Comprehensive Plan Land Use Map Designation. The Comprehensive Plan Land Use Map designation for the proposed rezone area is Downtown Urban Center.

3. Case Law Review Criteria and Application. Once it is concluded that a rezone is necessary for consistency with a Comprehensive Plan Land use map designation, approval of the rezone is essentially legally mandated except in extraordinary circumstances such as perhaps gross inconsistencies with other parts of the comprehensive plan. None of those circumstances are present here. The Auburn City Code does not include any criteria for rezone applications. Washington appellate courts have imposed some rezone criteria, requiring that the proponents of a rezone must establish that conditions have substantially changed since the original showing and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. *See Ahmann-Yamane, LLC v. Tabler*, 105 Wn. App. 103, 111 (2001). If a rezone implements the Comprehensive Plan, a showing that a change of circumstances has occurred is not required. *Id.* at 112.

The proposed rezone clearly meets the judicial criteria for a rezone. There is no question that the proposal is necessary to implement the Comprehensive Plan, as the Comprehensive Plan Land Use Map designation for the property is currently Downtown Urban Center and the current R7 Residential zoning is inconsistent with that designation. In point of fact, approval of a rezone to an implementing zone is mandated by RCW 36.70A.120 and ACC 14.22.050, which requires the City's zoning regulations to be consistent with its comprehensive plan. The requested rezone is to the DUC, Downtown Urban Center, the implementing zone for this Comprehensive Plan Land Use Designation.

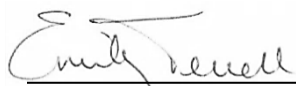
The rezone bears a substantial relationship to the public health, safety, morals and welfare because it will not result in any significant adverse impacts as determined in Finding of Fact No. 5 while providing a significant opportunity for economic development in the City of Auburn.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**RECOMMENDATION**

The Hearing Examiner recommends approval of REZ17-0005 without conditions.

DATED this 3<sup>rd</sup> day of January 2018.



---

Emily Terrell  
City of Auburn  
Hearing Examiner Pro Tem