

December 18, 2017

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

**REPORT AND RECOMMENDATION TO THE
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Permitting and Environmental Review file no. **LUT4170002**
Proposed ordinance no.: **2017-0495**

FEDERAL WAY FIRST PRESBYTERIAN
Rezone Application

Location: Parcels west of 3225 S 288th Street, Auburn

Applicant: Federal Way First Presbyterian
represented by **Paul Choi**
3225 S 288th Street
Auburn, WA 98001
Email: jeilpastor@yahoo.com

King County: Department of Permitting and Environmental Review
represented by **Kevin LeClair**
35030 SE Douglas Street Suite 210
Snoqualmie, WA 98065
Telephone: (206) 477-2717
Email: kevin.leclair@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Recommendation: Approve
Examiner's Recommendation: Approve

EXAMINER PROCEEDINGS:

Hearing Opened: December 12, 2017
Hearing Closed: December 12, 2017

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available from the Hearing Examiner’s Office.

FINDINGS:

1. General Information:

Date of application: June 13, 2017
Completeness determination: July 10, 2017

Applicant: Federal Way Presbyterian
by: Paul Choi
3225 S 288th Street
Auburn, WA 98001

Consultant: Roddy Nolten
1220 S 356th Street, Suite A-3
Federal Way, WA 98003

Location: Vacant parcels located west of 3225 S 288th Street
Parcel: 0321049066 and 0421049045
Section/Township/Range: 21 North, Range 4 East

Current zoning: NB-P (neighborhood business with P-suffix (FW-P29))
Requested zoning: NB (neighborhood business)

Comprehensive plan designation: CO (commercial outside of center)
Community plan: Federal Way (no longer adopted)

2. Federal Way First Presbyterian is the record owner of Parcels 0321049066 and 0421049045 located in unincorporated King County to the east of the City of Federal Way and south of S 288th Street. These parcels are currently zoned NB-P (Neighborhood Business with P-suffix condition FW-29). The King County Council adopted the P-suffix condition in 2000 as part of its adoption of the King County Comprehensive plan. That action changed the comprehensive plan land use designation of the properties from Urban Residential-Medium Density to Commercial Outside of Centers (CO) and the zoning from R-6 to NB-P. The P-suffix condition limits the use of the properties to a self-storage facility. Exhibits 2 and 11.
3. First Presbyterian has applied for a reclassification to remove the P-suffix condition so that it may expand the church use onto the adjacent parcels. Exhibit 2 and 8. First Presbyterian does not propose any development at this time. Testimony of Kevin LeClair.
4. The Department of Permitting and Environmental Review’s Staff Report, Exhibit 2, is correct and is incorporated herein.

5. KCC 20.22.150 specifies the findings the examiner must make when issuing a recommendation on a zone reclassification. The recommendation must include findings on whether the application meets both of the following:
 - A. The proposed rezone is consistent with the King County Comprehensive Plan; and
 - B.
 1. The property is potentially zoned for the reclassification being requested;
 2. An adopted subarea plan or area zoning specifies that the property shall be subsequently considered through an individual reclassification application; or
 3. The requested reclassification is based on changed conditions.

Consistency with the Comprehensive Plan

6. The NB zone classification is one of the zone classifications implementing the CO comprehensive plan land use designation. 2016 Comprehensive Plan, Chapter 12, Implementation, Amendments and Evaluation, Section IV, page 12-10.
7. As discussed in the Staff Report, Exhibit 2, the requested reclassification is consistent with Comprehensive Plan policies U-115, U-139, and U-141.

Potential Zoning

8. This criterion is not applicable; neither parcel has potential zoning. Testimony of Kevin LeClair.

Community Plan

9. This criterion is not applicable. The King County Council did not adopt the Federal Way Community Plan into the Comprehensive Plan. Exhibit 2.

Changed Conditions

10. In applying the changed circumstances test, courts have looked at a variety of factors, including: changed public opinion, changes in land use patterns in the area of the rezone, and changes on the property itself. *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846-847 (1995).
11. Since the County's adoption of the Comprehensive Plan in 2000, First Presbyterian obtained a Conditional Use Permit for and constructed the church to the immediate west of the parcels in question and has acquired these vacant parcels.
12. The circumstances leading to the adoption of the P-suffix condition have also changed. The previous owner of these parcels, who had apparently requested the P-suffix condition, has passed away. His estate supports the reclassification. Testimony of Kevin LeClair.

13. Future development of these parcels for related church activities, such those shown on its conceptual site plan, Exhibit 8, provides the opportunity to use the existing driveway curb cut, thereby minimizing curb cuts on S 288th Street. See, e.g., Exhibit 1, PRE16-0220, 11/09/16 1:00 PM In-House Meeting, KCDOT Traffic Engineering comments.
14. Any Finding of Fact which should be a Conclusion of Law is hereby adopted as a Conclusion of Law.

CONCLUSIONS:

1. Any Conclusion of Law which should be a Finding of Fact is hereby adopted as a Finding of Fact.
2. The NB zone classification without the current P-suffix condition is consistent with the Comprehensive Plan.
3. Conditions have changed since the previous zoning of these parcels in 2000.

RECOMMENDATION:

1. The examiner recommends that the rezoning reclassification application of Federal Way First Presbyterian be APPROVED and that the P-suffix condition FW-P29 be removed from the Neighborhood Business-zoned parcels 0321049066 and 0321049045.

DATED December 18, 2017.



Alison Moss
Hearing Examiner pro tem

NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD), and providing copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner's recommendation. Please consult KCC 20.22.230 for exact requirements.

Prior to the close of business (4:30 p.m.) on **January 11, 2018**, an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if the Clerk does not actually receive the fee and the appeal statement within the applicable time period.

Unless the appeal requirements of KCC 20.22.230 are met, the Clerk of the Council will place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner’s recommended action.

If the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about “next steps.”

**MINUTES OF THE DECEMBER 12, 2017, HEARING ON THE APPLICATION OF
FEDERAL WAY FIRST PRESBYTERIAN, DEPARTMENT OF PERMITTING AND
ENVIRONMENTAL REVIEW FILE NO. LUT4170002, PROPOSED ORDINANCE NO.
2017-0495**

Alison Moss was the Hearing Examiner in this matter. Participating in the hearing were Kevin LeClair and Paul Choi.

The following exhibits were offered and entered into the hearing record:

- | | |
|----------------|---|
| Exhibit no. 1 | Department of Permitting and Environmental Review file no. LUT4170002 |
| Exhibit no. 2 | Preliminary department report, transmitted to the Examiner on November 27, 2017 |
| Exhibit no. 3 | Rezone application, received June 13, 2017 |
| Exhibit no. 4 | State environmental policy act environmental checklist, received June 13, 2017 |
| Exhibit no. 5 | SEPA threshold determination of non-significance, issued November 17, 2017 |
| Exhibit no. 6 | Affidavit of posting indicating a posting date of September 27, 2017 |
| Exhibit no. 7 | Re-notice of application, sent September 27, 2017 |
| Exhibit no. 8 | Revised site plan map, received June 13, 2016 |
| Exhibit no. 9 | Notice of SEPA threshold determination and public hearing, sent November 17, 2017 |
| Exhibit no. 10 | Zoning map, received June 13, 2017 |
| Exhibit no. 11 | Condition no. FW-P29, dated March 12, 2001 |
| Exhibit no. 12 | Excerpt from King County Ordinance no. 14044, dated February 20, 2001; Map amendment no. 20 |
| Exhibit no. 13 | Ordinance no. 14044 signature report, dated February 20, 2001 |

AM/ed

December 18, 2017

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CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **LUT4170002**
Proposed ordinance no.: **2017-0495**

FEDERAL WAY FIRST PRESBYTERIAN
Rezone Application

I, Elizabeth Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as **FIRST CLASS MAIL** in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED December 18, 2017.



Elizabeth Dop
Legislative Secretary

Archuleta, Wally

Department of Permitting and Environmental Review

Asbury, Brian

Lakehaven Water & Sewer District
Hardcopy

Carlson, Joanne

Department of Permitting and Environmental Review

Choi, Paul

Federal Way First Presbyterian
Hardcopy

Eichelsdoerfer, Robert

Department of Transportation

Goll, Shirley

Department of Permitting and Environmental Review

Harris, Jim

City of Federal Way
Hardcopy

LeClair, Kevin

Department of Permitting and Environmental Review

Molia, John-Samalaulu

Hardcopy

Nolten, Roddy

RJN & Associates
Hardcopy

Rabie, Jodie

Hardcopy

Ricketts, Chris

Department of Permitting and Environmental Review

Smith, Scott-DPER

Department of Permitting and Environmental Review