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Return to: City of Mount Vernon
910 Cleveland Ave.
Mount Vernon, Washington 98273

DOCUMENT TITLE: Rezone (Ordinance 3834)

GRANTOR: City of Mount Vernon

GRANTEE: Glenmoor LLC

ABBREVIATED LEGAL DESCRIPTION: NE ¼ Sec. 21, Twp. 34N, Rge 04E

COMPLETE LEGAL DESCRIPTION: found in Exhibit B on page 4

ASSESSOR'S PARCEL/TAX ID NUMBER: P119008

ORDINANCE NO. 3834

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, PURSUANT TO CHAPTER 17.111 AMENDMENTS AND RECLASSIFICATIONS OF THE MOUNT VERNON MUNICIPAL CODE, REZONING A CERTAIN AREA:

WHEREAS, a rezone application has been submitted to the Hearing Examiner in compliance with Chapter 17.111 of the Mount Vernon Municipal Code, and said rezone requests a classification of the area described in the accompanying **Exhibit B** (property or subject property) from an existing zoning designation of Public(P) to a new zoning designation of Single-Family Residential with a maximum density of 4.54 dwelling units per acre (R-1, 4.0); and

WHEREAS, all requirements provided in the Mount Vernon Municipal Code Chapters 17.111 and 14.05 for reclassification of property within the City Limits of Mount Vernon have been met; and

WHEREAS, the Hearing Examiner has recommended the subject property be reclassified as per petitioner's request.

NOW, THEREFORE, THE CITY COUNCIL OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The City Council does hereby adopt the above listed recitals as set forth fully herein.

SECTION 2. The accompanying **Exhibit A** and **Exhibit B** are, by this reference, incorporated into and made part of this Ordinance.

SECTION 3. The City Council adopts the Hearing Examiner's recommendations, findings of fact and conclusions of law found in the accompanying **Exhibit A**.

SECTION 4. Additionally, the City Council adopts the below listed Findings of Fact and Conclusions of Law.

- A. The City has followed SEPA requirements and those requirements for public notification and participation outlined in MVMC Chapter 14.05.
- B. The City utilized the State Attorney General Advisory Memorandum: "Avoiding Unconstitutional Takings of Private Property" for evaluating constitutional issues, in conjunction with and to inform its review of the proposed amendments. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office, which has reviewed the Advisory Memorandum, has discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of the amendments to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).
- C. On **July 28, 2021** the City Council held a public hearing to consider the subject rezone application. At this hearing Council took testimony from those in attendance, reviewed the written materials provided by City staff, and listened to staff analysis respective to the rezone application before Council.

- D. The property described in Exhibit B shall be rezoned from Public(P) to Single-Family Residential with a maximum density of 4.54 dwelling units per acre (R-1, 4.0).
- E. Future development of the subject site shall be required to comply with the requirements codified in Mount Vernon Municipal Code (MVMC) 17.73.080 as it is currently written and as it may be amended in the future. MVMC 17.73.080 creates an overlay zone requiring the creation of a specified amount of affordable housing units on the subject property that shall be implemented following approval of the subject rezone.

PASSED AND ADOPTED THIS 28th day of July, 2021

SIGNED AND APPROVED THIS 30 day of July, 2021




Jill Boudreau, Mayor



Doug Volesky, Finance Director

Approved as to form:



Kevin Rogerson, City Attorney

Published August 7, 2021

EXHIBIT A
HEARING EXAMINER'S RECOMMENDATION

EXHIBIT B
LEGAL DESCRIPTION AND ILLUSTRATIVE MAP:

Tax Parcel P119008:

The Southwest Quarter of the Northeast Quarter of Section 21, Township 34 North, Range 4 East, W.M., EXCEPT the West 350 feet thereof; AND ALSO EXCEPT the South 30 feet thereof for Division Street; AND ALSO EXCEPT the three following described Tracts:

Exception TRACT "A":

Beginning at the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 21, Township 34 North, Range 4 East, W.M.; thence North $88^{\circ}28'56''$ West along the North line of said Southwest Quarter of the Northeast Quarter for a distance of 25.00 feet; thence South $01^{\circ}14'53''$ West, Parallel with the East line of said Southwest Quarter of the Northeast Quarter to the South line of said subdivision; thence East 25.00 feet, more or less, to the Southeast corner of said subdivision; thence North along the East line of said subdivision to the point of beginning.

Exception TRACT "B":

The South 540 feet of the East 325 feet of the Southwest Quarter of the Northeast Quarter of said Section 21; EXCEPT the South 30 feet thereof for County road; ALSO EXCEPT that portion thereof lying within Exception Tract "A" described hereinabove.

Exception TRACT "C":

Commencing at the Southwest corner of said Southwest Quarter of the Northeast Quarter; thence South $88^{\circ}40'43''$ East a distance of 20 feet along the South line of said subdivision to the East line of the West 20 feet of said subdivision; thence continue South $88^{\circ}40'43''$ East a distance of 20 rods along said South line to the true point of beginning; thence North $00^{\circ}50'31''$ East a distance of 495.00 feet parallel with the West line of said subdivision; thence South $34^{\circ}28'09''$ East a distance of 294.11 feet to a point 170 feet East and 255 feet North of the true point of beginning; thence South $17^{\circ}26'54''$ East a distance of 270.82 feet to a point on said South line that is South $88^{\circ}40'43''$ East a distance of 255 feet from the true point of beginning; thence North $88^{\circ}40'43''$ West a distance of 255.00 feet along said South line to the true point of beginning.

EXCEPT the South 30 feet thereof for County Road.

EXHIBIT MAP FOR ILLUSTRATIVE PURPOSES ONLY



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**BEFORE THE HEARING EXAMINER FOR THE CITY OF
MOUNT VERNON**

Phil Olbrechts, Hearing Examiner

RE: Glenmoor, LLC Rezzone PLAND21-0263	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION
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INTRODUCTION

Glenmoor LLC requests approval of a rezone from Public (P) to Single-Family Residential (R-1, 4.0) for a 22.5-acre parcel located on the north side of Division Street just east of its intersection with N. 30th St. It is recommended that the City Council approve the requested rezone as recommended by City staff.

As with the Diehl rezone approved by the City Council in 2020 for a parcel off E. Division about 15 blocks east, the rezone under review is necessary to make the parcel's zoning consistent with the underlying comprehensive plan map designation of Single-Family Medium Residential (SF-MED). The City Council adopted that comprehensive plan designation in 2016. The R-1, 3.0 and R-1, 4.0 districts are the only zones that are consistent with and implement the SF-MED comprehensive plan designation. Since RCW 36.70A.120 requires that the City Council's activities be in conformity with its comprehensive plan, the City Council is required to adopt either the R-1,4.0 or R-1, 3.0 designations.

The proposed rezone has drawn opposition from surrounding property owners, who have come to rely upon the wetlands and abundant wildlife of the project site to define the natural setting of their neighborhood. About half of the 22 acre site is encumbered by a large wetland. Five property owners submitted letters against the rezone, many commenting on the numerous wildlife species they've seen at the site, including bald eagles and horned owls. Two adjoining residents testified at the hearing about the wildlife. The residents were heartened to hear that their property abutted the wetland side of the project site, which staff anticipated to remain in its natural state upon development.

The City Council would likely be justified in adopting either of the two zoning designations available to them. About half of the project site abuts R-1, 4.0 zoning and the other half R-1, 3.0 zoning. As noted in Finding of Fact No. 4, most of the adjoining

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R-1, 4.0 zoning is developed with lots that are a little larger than the minimum lot sizes authorized in that zone. The zoning map of Figure 1 below shows how the zoning and lots are distributed.

Staff have found that there are sufficient public services to accommodate either rezone, including the traffic capacity of Division Street, which provides access to the site. The large wetland at the site would normally be a compelling argument for adopting the lower density zoning designation (R-1, 3.0), to reduce the number of homes that could adversely affect the wetland. However, staff testified that the difference in densities between the two zoning districts is so small that the lower density doesn't serve to provide any greater mitigation than the higher density. For comparison purposes, the minimum lot area in the R-1, 4.0 zone is 7,500 square feet while the minimum area in the R-1, 3.0 zoning district is 9,000 square feet. The maximum densities of the two zoning districts are 4.5 and 3.2 dwelling units per acre, respectively.

All factors being fairly equal, the determinative consideration in recommending the R-1, 4.0 zoning designation is staff's recommendation for approval and the Growth Management Act policy objective of encouraging high density in urban areas.

ORAL TESTIMONY

A computer-generated transcript has been prepared of the appeal hearing to provide an overview of the hearing testimony. The transcript is provided for informational purposes only as Appendix A. Since the transcript is computer generated, it is not 100% accurate, but does provide a useful indication of what testimony was presented during the hearing.

EXHIBITS

The staff report along with its three sets of attachments were admitted into the record during the June 21, 2021 public hearing as Ex. A.

FINDINGS OF FACT

Procedural:

- 1. Applicant. Glenmoor, LLC, Managed by : Subedar Deol, 310 Leann Street, Mount Vernon, WA 98272.
- 2. Hearing. A virtual hearing for the rezone application was held at 9:00 am on June 21, 2021 by Zoom application, Zoom Meeting ID No. 854 6134 8393.

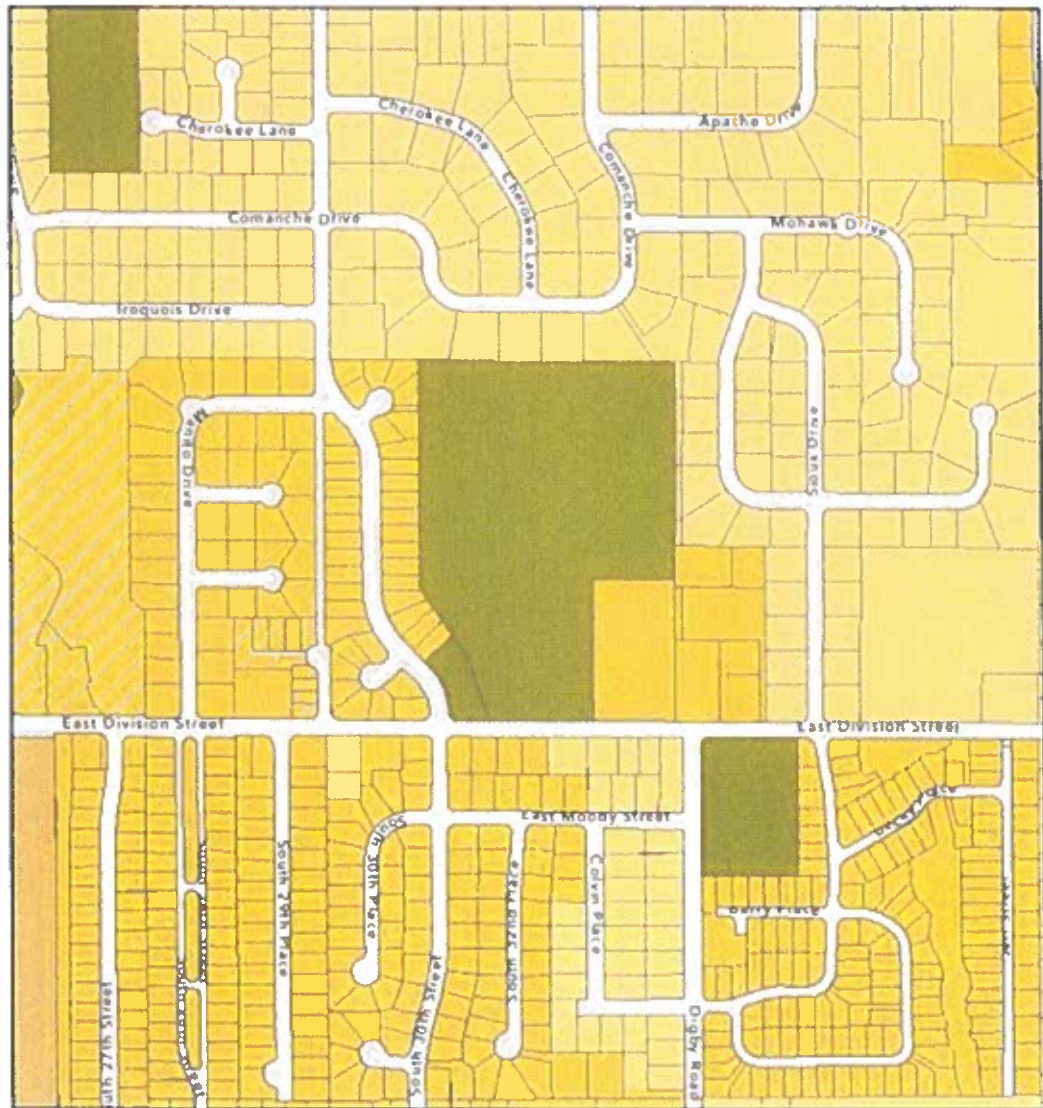
Substantive:

- 3. Site/Proposal Description. Glenmoor LLC requests approval of a rezone from Public (P) to Single-Family Residential (R-1, 4.0) for a 22.5-acre parcel located on the north side of Division Street just east of its intersection with N. 30th St.

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4. Characteristics of the Area. The project area is surrounded on all sides by residential development. As shown in Figure 1 below, surrounding parcels on the north, and east are developed lots zoned R-1, 3.0 that will be significantly larger than those permitted in the R-1, 4.0 zone. The lots to the north range in size from 0.6+/- to 1.01+/- acres in size. The lots on the west side of the development are zoned R-1, 4.0 and are 0.18+/- to 0.22+/- acres in size. For comparison purposes, the minimum lot size in the R-1, 4.0 zone is 7,500 square feet (0.17 acres).

Figure 1, Zoning Map (from staff report):



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5. Adverse Impacts. There are no significant adverse impacts associated with the proposal. Pertinent impacts are addressed more specifically as follows:

A. Compatibility. The proposal is compatible with surrounding development. When the R-1, 4.0 zoning south of Division Street is taken into consideration, about half of the sides of the project site are zoned R-1, 4.0 and the other half R-1, 3.0. All surrounding development is residential.

B. Public Utilities and Services. The proposal will be served by adequate and appropriate public services and utilities as follows:

1. Police and Fire. According to the staff report, the City's Police and Fire Departments are able to and will provide service to the subject site once it is developed. The Fire Department will impose municipal code requirements for the proposed development and the applicant will be required to pay fire impact fees to the City as part of the building permit process.

2. Recreation/Schools. Once this site is developed its residents will be able to use the City's parks and other recreational facilities. The applicant will be required to pay park impact fees to the City as part of the building permit process. The Mount Vernon School District will serve the site and new development will pay its fair share of capital improvement impacts by paying school impact fees at the time of building permit review

3. Stormwater. The City's comprehensive stormwater regulations assure that the proposal will not create any adverse stormwater impacts, whether it be through any available City facilities or through improvements required of the developer.

4. Water. Water service in the City is provided through Public Utility District #1 (PUD). The Applicant will be required to verify water availability for the future development with Skagit County Public Utility District. Any relocation, extension or connection of utilities will be done at the owner's expense.

5. Sewer. The City of Mount Vernon Wastewater Treatment Plant has sufficient capacity to treat the effluent from the proposed development. Any relocation, extension or connection of utilities will be done at the owner's expense.

6. Streets. City staff testified at the hearing that E. Division St., which provides access to the site, is operating above adopted level of service standards and will be able to accommodate traffic generated by the proposal. Tr. 5.

1 C. Critical Areas. According to staff testimony, about half of the parcel is
2 encumbered with a wetland. Tr. 4. Neighbors submitted several letters
3 identifying wildlife at the project site such as bald eagles and horned owls.
4 Staff testified that in their preliminary assessment they did not find any of the
5 species at the site to be protected. Tr. 3. A more thorough and detailed
6 assessment will be conducted when an application for development is
7 submitted. Staff have determined that for purposes of the rezone, the choice of
8 two zoning districts available to the City Council will not make any difference
9 in terms of affecting critical areas. Tr. 4.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. The hearing examiner has authority to hold
hearings and make recommendations to the City Council on requests for site specific
rezones. See MVMC 17.111.010.

Substantive:

2. Zoning Designation. The project site is zoned Public (P).

3. Review Criteria. Rezone criteria are governed by MVMC 17.111.070,
which are quoted below in italics and applied through corresponding conclusions of
law.

MVMC 17.111.070: *When the planning commission or hearing examiner is
considering recommendations for reclassifications, or when the city council is
considering approval of reclassifications, the planning commission or hearing
examiner or the city council shall investigate the request for reclassification and shall
consider, among other questions, the following:*

*A. Is the request compatible with the city's comprehensive plan and development
goals?*

4. The criterion well accommodates the RCW 36.70A.120 requirement that the City
Council's activities be in conformity with its comprehensive plan. As outlined in the
Introduction section of this Recommendation, the Council's options are legally limited
to adopting the R-1, 3.0 or R-1, 4.0 zoning designations. These are the options the
Council chose when it amended the comprehensive plan designation for the property
in 2016. As further outlined in the Introduction section, adopted by this reference, the
R-1, 4.0 designation is recommended because the higher density of the R-1, 4.0 district
does not create any greater adverse or compatibility impacts than the lower R-1, 3.0

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designation, the Growth Management Act encourages high densities in urban areas and staff recommended approval.

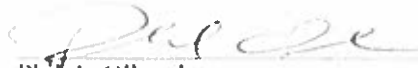
MVMC 17.111.070B: *Are public utilities, public facilities and other services currently adequate to serve the proposed district?*

5. As determined in Finding of Fact No. 5B, the proposal will be served by adequate public utilities, facilities and services.

Recommendation

The proposal complies with all rezone criteria and state law mandating consistency between a comprehensive plan and its zoning code. For these reasons it is recommended that the City Council approve the rezone request from Public (P) to Single-Family Residential (R-1, 4.0).

Dated this 3rd July 2021.


Phil A. Olbrechts

City of Mount Vernon Hearing Examiner