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4 **BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE**  
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7 In the Matter of the Rezone Proposal of

8 **City Dacha LLC**

9 For a Rezone from R-1 (Single-Family  
10 Residential) to R-20 (Multi-Family  
11 Residential) at 160 118<sup>th</sup> Avenue SE  
Bellevue WA

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND RECOMMENDATION**

**File No. 17-131047-LQ**

12 **SUMMARY**

13 **Recommendation.** The Hearing Examiner recommends that the Bellevue City Council,  
14 subject to conditions, **APPROVE** the proposed Rezone.

15 **Proposal.** The applicant, Greg Krape, seeks a Rezone of a .43-acre site at 160 118<sup>th</sup>  
16 Avenue SE from R-1 (Single-Family Residential) to R-20 (Multi-Family Residential) consistent  
17 with the Comprehensive Plan Amendment which modified the Comprehensive Plan designation  
18 of the property from P/SF-L (Public/Single Family-Low) to MF-M (Multi-Family Medium).

19 **Procedure.** On December 22, 2017, Mr. Krape submitted the Rezone application at  
20 issue. The City's Planning Commission eventually published appropriate notices on the  
21 Comprehensive Plan Amendment with respect to the site at issue and held a public hearing on  
22 October 24, 2018. The Commission recommended approval to the Bellevue City Council on  
23 October 24, 2018. On December 10, 2018, the City Council adopted the proposed amendment to  
24 the Comprehensive Plan (Ordinance 6447 at Exhibit C-1, Staff Report Attachment).

25 On January 17, 2019, a notice of the application for zoning designation change was  
issued and notice was appropriately accomplished. A public meeting ensued on January 29,  
2019. The applicant and his attorney appeared at the meeting. Four members of the public also

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1 appeared and they provided background on the site and asked about future development. They  
2 did not object to the Rezone proposal. The City also received several written comments about  
3 violations and corrective actions on the property at issue, but the recommended approval of the  
4 Rezone is determined independent of those concerns as allowed by a Voluntary Correction

5 The Development Services Department issued a Determination of Non-Significance  
6 (DNS) under the State Environmental Policy Act (SEPA) on October 4, 2018 (File 17-131106-  
7 AC) upon finding that the proposal at issue would not have a probable, significant adverse  
8 impact on the environment (Staff Report, Exhibit C-1). The DNS was not appealed.

9 The City issued a staff report and a recommendation for approval of the proposed Rezone  
10 on April 4, 2019 (Staff Report, Exhibit C-1).

11 Upon due notice, the undersigned Hearing Examiner held a hearing in the Bellevue City  
12 Council Chambers on April 18, 2019. Peter Rosen, Senior Land Use Planner, City of Bellevue,  
13 presented a staff report and testified on behalf of the City. The applicant, Greg Krape, was  
14 present but did not testify. Attorney Ian Morrison appeared on behalf of the applicant and stated  
15 that the applicant concurred with the Rezone analysis and recommendation for approval from the  
16 Development Services Department.

17 Mr. Morrison mentioned concerns about the applicant's unpermitted clearing and grading  
18 on the site and dealings with the City on these issues. He noted that the applicant had completed  
19 corrective action required under a Voluntary Correction Agreement (VCA)(Staff Report,  
20 Attachment B). Both Mr. Morrison and Mr. Rosen agreed that the violations on the property and  
21 related matters concerning any corrections are not relevant to the Rezone application. The  
22 Examiner finds that these matters are not relevant to the application at issue.

23 No public testimony was offered but, in the course of the hearing, the Examiner permitted  
24 an observer, Mr. T.C. Wu, to ask a question. Mr. Wu asked about the term "transitional zone."  
25 At the Examiner's request, Mr. Rosen replied, and Mr. Wu then commented that his question  
was answered.

Hearing Examiner Program Coordinator Karen Hohu was also present at the hearing and  
created an audio recording of the proceeding.

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1 The City's Staff Report with accompanying file materials was admitted into evidence as  
2 Exhibit C-1, and a copy of the City's Power Point presentation was admitted as Exhibit C-3. Mr.  
3 Rosen also submitted written comments from members of the public, and those documents were  
4 admitted as Exhibit C-2. A letter dated April 18, 2019 with attached documents from the  
5 applicant's attorney was admitted as Exhibit A-1.

6 The undersigned Examiner visited the site at issue prior to the hearing.

### 7 **FINDINGS OF FACT**

8 1. The Examiner adopts the factual matters set forth in the foregoing **SUMMARY** as  
9 findings.

10 2. The Applicant, Greg Krape, owns the site at issue at 160 118<sup>th</sup> Avenue SE in Bellevue.

11 3. The site at issue has an area of about .43-acres in the Wilburton/ 8<sup>th</sup> Street subarea. An  
12 abandoned cabin that was constructed in 1900 occupies the property and brush and trees cover  
13 much of the site.

14 4. The site is south of and directly adjacent to Wilburton Hill Community Park and the  
15 Bellevue Botanical Garden, and adjacent to a multi-family development on the east and south.  
16 An office complex surface parking lot is directly across the street--118<sup>th</sup> Avenue SE--to the west  
17 of the site.

18 5. The site is currently in the R-1 (Single-Family Residential) land use district and is  
19 adjacent to zoning designations R-1 (Wilburton Hill Community Park/ Bellevue Botanical  
20 Garden) to the north; R-20 (multi-family development) to the south; R-20 (Office and multi-  
21 family development) to the west; and multi-family development to the east, as detailed in the  
22 Staff Report at Exhibit C-1.

23 6. The Bellevue City Council approved the Comprehensive Plan amendment and the  
24 SEPA review completed with it on December 10, 2018, and the Council thus changed the  
25 Comprehensive Plan designation of the site at issue from Public/Single Family-Low (P/SF-L) to  
Multi-Family Medium (MF-M). With this change, the appropriate zoning designation should be  
changed from R-1 (Single-Family Residential) to R-20 (Multi-Family Residential), as described  
in the City's Staff Report.

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1 7. If the Rezone is approved, any future development for the site will be subject to  
2 project-specific review and other required approvals under the Bellevue City Code.

3 8. The proposed Rezone meets all applicable requirements, as Senior City Planner Mr.  
4 Rosen testified credibly and as explained in the Staff Report (Exhibit C-1).

5 9. The City's Utilities Department technical staff concluded that existing services  
6 provided sufficient capacity for this site and suggested no utilities-related conditions for this site  
7 (Staff Report, Exhibit C-1).

8 10. The City's Transportation Department analyzed the site and found that development  
9 of the site would result in "some additional vehicle trips" and did not expect "significant traffic  
10 or transportation impact." Any future development proposal shall include transportation review.

11 11. The proposed Rezone aligns with the Comprehensive Plan and policies regarding  
12 regional growth, new residential development, and density patterns (See Land Use Policies LU-  
13 5, LU-6, LU-9, and LU-23, at Staff Report, Page 9, Exhibit C-1).

14 12. The proposed Rezone will promote the public welfare by fulfilling a community need  
15 and will not require new public facilities or services. The new designation assures that the  
16 current site may meet evolving needs of citizens.

17 13. The proposed Rezone will provide consistency between the Comprehensive Plan, as  
18 amended by the City Council, and the zoning designation. In addition, the Rezone is consistent  
19 with land use policies regarding residential and commercial uses.

20 14. The proposed Rezone will not be a material detriment to the uses or property in its  
21 vicinity. The Rezone will allow multi-family uses at a density similar to that of adjacent property  
22 to the south.

23 15. The Rezone will add value to the community by providing new opportunities for  
24 residences consistent with the character of the neighborhood and the Comprehensive Plan. Also,  
25 the property provides a transition between higher density commercial uses on the west side of  
118<sup>th</sup> Avenue SE, and the lower density of the park and botanical garden to the east and north.  
Multi-family uses will be consistent with the adjacent property to the south.

16. The Staff Report thoroughly analyzes the rezoning proposal in light of the criteria  
under LUC 20.30A.140, and finds that, as conditioned, the Rezone will be consistent with that  
ordinance. Basically, as the City's Land Use Division found: the Rezone proposal is consistent

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1 with the Comprehensive Plan; the Rezone is warranted to achieve consistency with the updated  
2 Comprehensive Plan and the Land Use Code; the Rezone promotes the public welfare; the  
3 Rezone is compatible with the surrounding area; the Rezone presents no materially detrimental  
4 uses in the immediate vicinity of the site; and the Rezone has “merit and value for the  
community as a whole” by addressing community needs.

5 17. The Hearing Examiner concurs with the City’s analysis and adopts the same. The  
6 Staff Report is incorporated by reference herein as though fully set forth.

7 18. The applicant’s violations on the property and required corrective actions and related  
8 matters are not relevant to the Rezone application at issue.

9 19. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### 10 CONCLUSIONS OF LAW

11 1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.  
12 The application is subject to Process III, under which the Examiner makes a recommendation  
13 following a public hearing and the City Council makes the final decision. LUC 20.35.015D,  
14 LUC 20.35.300 *et seq.*

15 2. The proposed Rezone is consistent with the decision criteria of LUC 20.30A.140 in  
16 that it complies with the Comprehensive Plan under LUC 20.30A.140A, and meets the other  
17 criteria including providing “value for the community as a whole” under LUC 20.30A.140E.  
18 Each condition under LUC 20.30A.140 was carefully analyzed in the City’s Staff Report and the  
19 conclusions in that report are incorporated by reference in this recommendation.

20 3. The proposed Rezone is consistent with Land Use Element Policies.

21 4. The proposal requires no physical change to the site and no redevelopment of any type,  
22 and any new future uses will require compliance with the Land Use Code and other applicable  
23 ordinances, regulations and legal provisions.

24 5. As conditioned, the proposed Rezone is consistent with the State Environmental  
25 Policy Act and with the decisional criteria for a Rezone. WAC 197-11-355; LUC 20.30A.140.

6. The requested Rezone should be approved.

7. Any finding herein which may be deemed a conclusion is hereby adopted as such.

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**CONDITIONS**

1 1. Approval of this Rezone does not constitute an approval of any Land Use Code  
2 amendments, Land Use Entitlement review, or any other ancillary permits that may be required  
3 for design and construction of any proposed development on the Rezone site.

4 2. The Single-Family Transition Zone should be adopted and applied to the subject  
5 property.

**RECOMMENDATION**

6 The Hearing Examiner recommends that the City Council **APPROVE** the Rezone  
7 application subject to the condition set forth above.

8 DONE this 2nd day of May 2019.

9  
10 *Robin Lindley*  
11 Robin Lindley, Hearing Examiner *KLH*

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1 **NOTICE OF RIGHT TO APPEAL**

2 (Pursuant to Resolution No. 9473)

3 **RIGHT TO APPEAL-TIME LIMIT**

4 Persons and entities identified in Land Use Code (LUC) 20.35.350, may appeal the  
5 recommendation of the Hearing Examiner to the Bellevue City Council by filing a written  
6 statement of the Findings of Fact or Conclusions of Law which are being appealed, and paying a  
7 fee, if any, as established by ordinance or resolution, no later than 14 calendar days following the  
8 date that the recommendation was mailed. The written statement must be filed together with an  
9 appeal notification form, available from the City Clerk. The written statement of appeal, the  
10 appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later  
11 than **5:00 p.m. on Thursday, May 16, 2019.**

9 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

10 An appeal of the Hearing Examiner’s recommendation requires the preparation of a  
11 transcript of the hearing before the Hearing Examiner. Within thirty (30) days of the decision  
12 which is appealed from, the appellant shall order from the City Clerk, on a form provided by the  
13 Clerk, a full transcript of the hearing before the Hearing Examiner. At the time the order for  
14 transcription is placed, the appellant shall post security in the amount of One Hundred Dollars  
15 (\$100.00) for each hearing hour to be transcribed. If appellant fails to post security, the appeal  
16 shall be considered abandoned.

15 Additional requirements and procedures concerning appeals filed with the Council are  
16 found at Resolution 9473 and in the City of Bellevue Land Use Code.

16 **CITY COUNCIL CONSIDERATION**

17 Unless appealed, this matter has tentatively been scheduled to go before the City Council  
18 on **Monday, June 3, 2019 at 8:00 p.m.** for consideration, and **Monday, June 17, 2019 at 8:00**  
19 **p.m.** for final action. After Thursday, May 16, 2019, interested persons may contact the Hearing  
20 Examiner’s Office at (425) 452-6934 to find out whether an appeal has been filed.  
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**CITY OF BELLEVUE  
450 – 110th Avenue NE  
P. O. Box 90012  
Bellevue, WA 98009 9012**

AFFIDAVIT OF SERVICE

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

Karen Hohu, being first duly sworn upon oath, deposes and states:

In the Matter of City Dacha LLC Rezone, on the 2nd day of May 2019, I served a copy of:

*FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION*

BY ELECTRONIC SERVICE – EMAIL by electronically mailing a true and correct copy thereof through the City of Bellevue’s electronic mail system to the email address(es) set forth below:

prosen@bellevuewa.gov  
imorrison@mhseattle.com

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Bellevue, Washington on this 2nd day of May 2019.

*Karen Hohu*

Karen Hohu  
Hearing Examiner Program Coordinator

Subscribed and sworn this 2<sup>nd</sup> day of May, 2019



*Sarah Knox*

Notary Public in and for the State of  
Washington, residing at Seattle  
My appointment expires: 7/23/2020

Application, Petition or Case:

City Dacha LLC—Application for Rezone

File No.: 17-131047-LQ