

Exhibit B

Before Hearing Examiner
Gary N. McLean

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF RICHLAND**

Regarding the Application to *Rezone* about)
4-acres of property from B-C (Business and)
Commerce) to I-M (Medium Industrial),)
which is fully consistent with the)
Comprehensive Plan’s IND (Industrial) land)
use designation assigned to the area,)
submitted by)
)
MFJG HOLDINGS, LLC)
(MATT FREDRICKSON),)
)
Applicant)

File No. Z2023-108

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

I. SUMMARY OF RECOMMENDATION.

The applicant can meet its burden of proof to demonstrate that its requested rezone merits approval.

The site is now designated for Industrial land uses under applicable provisions of the City’s Comprehensive Plan. While both the existing zone (B-C) and the requested zone (I-M) are both zones used for properties designated for Industrial land uses, the applicant and Staff presented un rebutted evidence showing that the rezone site has remained vacant and difficult to market under current zoning. The applicant believes the requested I-M zone, already assigned to many surrounding parcels, will make their property more marketable for future development.

This requested rezone does not approve any development activity on the site. As with all development proposals, City Development Regulations will apply to any specific projects that may eventually be proposed on the site.

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FROM THE “B-C” ZONE TO THE “I-M” ZONING
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1 **II. BACKGROUND AND APPLICABLE LAW.**

2 In this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing
3 on the site-specific rezone application at issue and is directed to issue a written recommendation for
4 consideration and final action by the Richland City Council. *See* Richland Municipal Code (RMC)
5 19.20.010(D)(identifies “site-specific rezones” as Type IIIA permit applications); RMC
6 23.70.210(A)(“The hearing examiner shall conduct an open record public hearing as required by RMC
7 Title 19 for a Type IIIA permit application.”); and RMC 19.20.030(granting jurisdiction to Hearing
8 Examiner to conduct public hearing and issue recommendation to City Council); RMC
9 19.25.110(authority for Examiner actions, including conditions of approval on applications or
10 appeals); and RCW 35A.63.170(state statute regarding hearing examiner system).

11 The applicant bears the burden of proof to show that its application conforms to the relevant
12 elements of the city’s development regulations and comprehensive plan, and that any significant
13 adverse environmental impacts have been adequately addressed. RMC 19.60.060.

14 Finally, Washington Courts apply three basic rules when reviewing appeals of rezone
15 applications: (1) there is no presumption favoring the rezone request; (2) the proponent of a rezone
16 must demonstrate that there has been a change of circumstances since the original zoning,
17 PROVIDED if a proposed rezone implements the policies of a comprehensive plan, a showing of
18 changed circumstances is usually not required¹; and (3) the rezone must have a substantial relationship
19 to the public health, safety, morals, or general welfare. *Woods v. Kittitas County*, 162 Wn.2d 597
20 (2007), citing *Citizens for Mount Vernon*, 133 Wn.2d 861, at 875 (1997); *Parkridge v. City of Seattle*,
21 89 Wn.2d 454, 462 (1978).

22 **III. QUESTIONS PRESENTED.**

23 For purposes of the pending rezone application, the central questions presented are:

24 A. Whether the requested rezone implements policies of the City’s Comprehensive Plan, and/or
25 whether there has been a change of circumstances since the current B-C (Business and Commerce)
26 zoning was adopted for the site?

Short Answer: Yes to both. The site is already designated for Industrial uses in the City’s
Comprehensive Plan, so the requested rezone from B-C to I-M would be consistent with and
effectuate the Comprehensive Plan. While both the existing and requested zoning districts
are available for Industrial designated properties², the lack of development and consistent

¹ *Save Our Rural Env't v. Snohomish County*, 99 Wn.2d 363, 370-71 (1983); *Henderson v. Kittitas County*, 124 Wn. App.
747, 754 (Div. III, 2004); *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846 (Div. III, 1995).

² See RMC 23.28.010(A), which explains that the B-C zone is intended to be applied to some portions of the city that are
designated Industrial under the city of Richland comprehensive plan; and RMC 23.26.010(A), which explains that the I-M

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occupancy for the few buildings placed immediately north of the rezone site over the years tends to support the applicant’s belief that the requested I-M zone is a better fit for their property and should make the parcels more marketable and improve the site’s development potential.

B. Whether the rezone bears a substantial relationship to the public health, safety, morals, or general welfare?

Short Answer: Yes, because the rezone is fully consistent with the City’s Comprehensive Plan, and any future, project-specific proposal will have to meet city development regulations, including SEPA, traffic impact reviews, public infrastructure concurrency reviews, and payment of any impact fees in effect at the time of an application. Longstanding vacancies and lack of development on property intended for Industrial uses, in an area already well-served by or with ready access to public infrastructure, is not in the public interest. The proposed rezone appears to be an effort to expedite development potential for the site, noting that it has remained undeveloped under its current zoning designation.

IV. RECORD.

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the City of Richland, and may be examined or reviewed by contacting the City Clerk’s Office.

Public notices regarding the application and public hearing were mailed, posted, and published as required by city codes prior to the public hearing. (*Staff Report, page 15; Exhibit 3*).

Hearing Testimony: The City’s Senior Planner, Matthew Howie, and the applicant, Matt Fredrickson, were the only individuals who asked to present testimony under oath during the public hearing. The Examiner conducted the public hearing using a hybrid format, with the Examiner appearing in person with Staff from the City Council chambers and an online communication platform, coordinated by city staff, available for participation or observation by people appearing remotely. No members of the public or other interested parties asked to speak or presented any written comments opposing the requested rezone.

Exhibits: The Development Services Division Staff Report for the requested Rezone, including a recommendation of approval, was provided to the Examiner in the week before the hearing. The Staff Report, and the following Exhibits, were all accepted into the Record in their entirety without modification:

- 1. Rezone Application Materials;

zone is intended to be applied to some portions of the city that are designated Industrial under the city of Richland comprehensive plan.

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2. Vicinity map;
3. Public Notices & Affidavits; and
4. Agency Comments, with none objecting or raising questions that would serve as a basis to deny the requested rezone.

The Examiner has visited the road network and vicinity of the proposed rezone on multiple occasions over the past few years in connection with other applications and did so again on the day of the public hearing; and is fully advised on matters at issue herein, including without limitation adjacent developments and land uses, applicable law, application materials, and relevant comprehensive plan provisions.

V. FINDINGS OF FACT.

Based upon the record, the undersigned Examiner issues the following Findings of Fact.

Application, Site Location and Conditions.

1. On or about September 14, 2023, MFJG Holdings, LLC (Matt Fredrickson), the applicant in this matter, purchased three abutting parcels of land with about 4-acres, generally addressed as 801 Dalton Street, with Dalton Street on the north, Fermi Drive on the east, Curie Street on the south, and Stevens Drive on the west, assigned Benton County Assessor Parcel Numbers 123083013398002, 123083013398003, and 123083013398004. (*Ex. 1, Application Materials; Ex. 2, Vicinity map; Benton County Assessor online records, sales history for parcels*). At the same time, the applicant purchased a larger parcel, immediately north, that is not part of this rezone request, addressed as 800 Dalton Street, and assigned Parcel No. 123083013398001. The parcels are in the upper northeast portion of the City limits, on land that was once used for Hanford support facilities, long since abandoned. (*Staff Report, page 3*).

2. The applicant's 3 parcels at issue in this request for a rezone are currently designated for "Industrial" land uses in the City's Comprehensive plan and are zoned B-C (Business and Commerce), which is a zoning designation applied to some portions of the city that are designated Industrial in the Comprehensive Plan. (*See Staff Report, page 4; Ex. 1, Application materials; and RMC 23.28.010(A)*).

3. In this application, the owner/applicant seeks approval to rezone three parcels to another available "Industrial" zoning classification, specifically the I-M (Medium Industrial) zone, which is also applied to some portions of the city that are designated for Industrial uses in the Comprehensive Plan. (*See RMC 23.26.010(A); Ex. 1, Application materials; Staff Report, analysis on pages 15-17*)

4. Some of the reasons for this requested rezone appear in response to questions asked on the application form, portions of which are republished below:

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ANSWER THE FOLLOWING AS COMPLETELY AS POSSIBLE

The unique characteristics, if any, of the property or circumstances of the owner:

Surrounding area is mostly industrial, light industrial and government business. Limited housing in the area and lack of residential neighborhoods presents a difficult market to less buildings under the current Business commerce zoning

Any hardship that may result in the event the rezone is not granted:

Property as currently zoned does not appear to be marketable for the area. Parcel to the north is already zoned business commerce with a building vacant that has been vacant for some time. Light industrial will be more marketable for the area.

Whether the proposed rezone represents a better use of the land from the standpoint of the comprehensive plan than the original zone:

Light commercial would be a better use of land. This proposed zoning fits with the use of this area. Parcel to the North is already zoned business commerce and is struggling to find and keep tenants due to the nature of the businesses in the area.

Whether the proposed rezone represents spot zoning and whether a larger area should be considered:

Rezoning to light industrial will fit with the surrounding zoning.

(Ex. 1, Application materials, signed by the applicant, Mr. Fredrickson, on pages 1 and 2).

5. There is no dispute that the requested rezone is consistent with and will implement policies in the City’s Comprehensive Plan, especially if the properties are finally developed and utilized for their intended Industrial purposes in an area with robust transportation system facilities and adequate utilities.

6. Changed circumstances also support the requested rezone from the B-C to the I-M zone. The area of this rezone is still in transition from its historic use as part of former Hanford/Department of Energy endeavors to a mix of industrial and business/institutional campus uses. *(Site visits; Staff Report, page 13)*. The presumed intent of the current B-C zoning, i.e. to serve as some sort of buffer between potential residential uses that might have been developed on adjoining properties allowing for multi-family residential uses, among other things, has been undercut by rezones and development on surrounding parcels, meaning the three parcels addressed in this application no longer provide any meaningful buffer purpose. *(See Staff Report, analysis on pages 15-17)*.

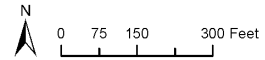
7. The Examiner concurs with the opinion of staff and finds that the proposed I-M zoning with its associated permitted land uses is compatible with other uses in the vicinity. The parcel to the north – also owned by the applicant – will remain under B-C zoning, providing the ‘buffer’ between I-M parcels to the south and B-RP zoned properties to the north, across University Drive. Figure 3 on page 5 of the Staff Report shows the current zones assigned to the applicant’s rezone parcels (outlined in orange) and surrounding parcels, and is republished below for the reader’s convenience:

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Zoning Map

Item: 801 Dalton St Zone Change
Applicant: Matt Fredrickson
File #: Z2023-108



8. This application essentially argues that lands have remained vacant so a rezone is in order, to try something else that might spur development. The same arguments have been presented in other areas of the City, in the context of development proposals connected with plats, as well as rezone requests. In most all circumstances, the decision-makers must consider whether goals and vision statements in planning documents – like providing a mix of residential and residential-friendly commercial uses placed on parcels used as a buffer between more intense ‘industrial’ uses and potential, future residential projects – have been given adequate time to come to reality. In this matter, the utility of the three parcels at issue serving as any meaningful buffer appears minimal, at best, especially when viewing the current zoning map of surrounding parcels, provided above, where all parcels to the west, south, and east are already zoned I-M.

9. Through the public comment and hearing process, no one submitted any comments, evidence, or legal authority that would serve as a basis to deny this requested rezone.

10. Because staff deemed the application to be consistent with the City’s Comprehensive Plan, which already designates the rezone site as suitable for Industrial land uses, and the City’s plan was

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1 analyzed in an environmental impact statement at the time of its adoption, the pending application is
2 categorically exempt from SEPA review as provided in WAC 197-11-800(6)(c). (*Staff Report, page*
3 *15; Official notice from record of previous rezone matters re: City SEPA process(es) undertaken*
4 *when Comprehensive Plan was adopted and amended*).

5 11. The record does not include any evidence that the requested I-M zone could allow for any
6 uses that would be incompatible with surrounding uses. In fact, parcels to the south, west, and east
7 of the rezone site are already zoned I-M. (*Staff Report, Figure 3 – Zoning Map of rezone area, on*
8 *page 5*).

9 12. The Staff Report’s analysis of this application stands un rebutted. No one submitted written
10 evidence or provided public testimony through the public hearing process that questioned or opposed
11 the proposed rezone. The requested rezone is fully consistent with land use policy goals in the City’s
12 Comprehensive Plan.

13 ***Public services and utilities are adequate and readily available to serve the site.***

14 13. As part of the review process, City staff confirmed that adequate utilities, including without
15 limitation water, sewer, stormwater, natural gas, and electricity, are in place and/or readily available
16 to serve the parcels addressed in this matter. (*Staff Report, pages 11-13*).

17 ***Consistency with City Codes and Comprehensive Plan.***

18 14. As explained elsewhere in this Recommendation, the rezone site is already designated as
19 “Industrial” in the City’s Comprehensive Plan, and the request is change the zoning from one
20 available Industrial zoning classification (B-C) to another (I-M), which based on the site’s failure to
21 develop over an extended period of time, appears to be a better fit, and should enhance the property’s
22 development potential.

23 15. Standing alone, the requested rezone conforms to the Comprehensive Plan, because the plan
24 already identifies the property as suitable for Industrial uses.

25 ***General findings.***

26 16. The requested rezone bears a substantial relationship to the public health, safety, and general
welfare. The requested rezone is appropriate in the context of adjacent properties.

17. The Development Services Division Staff Report, prepared by Mr. Howie, includes a number
of specific findings and explanations that establish how the underlying application satisfies provisions
of applicable law and is consistent with the city’s Comprehensive Plan and zoning regulations. Except
as modified in this Recommendation, all Findings contained in the Staff Report are incorporated
herein by reference as Findings of the undersigned-hearing examiner.

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18. Any factual matters set forth in the foregoing or following sections of this Recommendation are hereby adopted by the Hearing Examiner as findings of fact and incorporated into this section as such.

VI. CONCLUSIONS.

Based upon the record, and the Findings set forth above, the Examiner issues the following Conclusions:

1. The applicant met its burden to demonstrate that the requested rezone conforms to, and in fact implements objectives of, the City's Comprehensive Plan. *Findings; Staff Report.*
2. The applicant met its burden to demonstrate that the requested rezone bears a substantial relationship to the public health, safety, or welfare.
3. The rezoned site will not be materially detrimental to uses or property in the immediate vicinity of the subject property. In fact, the rezone may enhance the site's development potential, implementing goals and policies in the City's Comprehensive Plan.
4. While the pending rezone application is categorically exempt from formal SEPA review, the record demonstrates that the potential for adverse impacts is very unlikely. And, after public notices issued for the application, no one spoke or submitted any written comments opposing the pending rezone request.
5. As required by RMC 19.50.010(C), the transportation system is sufficient to accommodate the type of development envisioned with the proposed rezone. The surrounding road network is fully functional, and no transportation concurrency problems are likely to arise as a result of the rezone for the site. Development regulations, including without limitation those detailing frontage improvements, access, roadway improvements, traffic mitigation, setbacks, and the like, will apply to any future project built on the site.
6. Based on the record, the applicant demonstrated its rezone application merits approval, meeting its burden of proof imposed by RMC 19.60.060.
7. Approval of this rezone will not and does not constitute, nor does it imply any expectation of, approval of any permit or subsequent reviews that may be required for development or other regulated activities on the site of the subject rezone.
8. Any finding or other statement contained in this Recommendation that is deemed to be a Conclusion is hereby adopted as such and incorporated by reference.

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VII. RECOMMENDATION.

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that the MFJG Holdings, LLC application (File No. Z2023-108) to rezone three parcels with about 4-acres from their current B-C (Business and Commerce) zone to the I-M (Medium Industrial) zoning district, which is consistent with the Comprehensive Plan’s “Industrial” land use designation assigned to the area, should be **APPROVED**.

ISSUED this 30th Day of January, 2024



Gary N. McLean
Hearing Examiner

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