



**OLYMPIA  
HEARING EXAMINER  
RECOMMENDATION**

Community Planning & Development  
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October 25, 2016

Greetings,

**Subject: Cushing Rezone  
Case# 16-0045**

The enclosed **corrected** recommendation of the Olympia Hearings Examiner, hereby issued on the above date. The Examiner's **corrected** recommendation will be forwarded to the City Council. Review of this **corrected** recommendation by the Council has not yet been scheduled. When initial Council consideration of this **corrected** recommendation has been scheduled, notice will be provided to all parties directly receiving this letter.

Please note that the accompanying **corrected** recommendation is **not** the final decision of the City of Olympia. Accordingly, this **corrected** recommendation is not appealable. The City Council will determine what process to use for considering this **corrected** recommendation.

Please contact the City of Olympia, Community Planning and Development Department, at 601 4<sup>th</sup> Avenue E or at PO Box 1967, Olympia, WA 98507-1967, by phone at 360-753-8314, or by e-mail at [cpdinfo@ci.olympia.wa.us](mailto:cpdinfo@ci.olympia.wa.us) if you have any questions.

Sincerely,

Suki Bell-Sullivan  
Office Specialist III  
Community Planning & Development

1 BEFORE THE CITY OF OLYMPIA HEARINGS EXAMINER

2 IN RE: ) HEARING NO. 16-0045  
3 CUSHING STREET REZONE, ) [CORRECTED]  
4 ) FINDINGS OF FACT,  
5 Applicant. ) CONCLUSIONS OF LAW,  
6 ) DECISION AND RECOMMENDATION  
7 ) TO CITY COUNCIL

8 **APPLICANT:** Alicia Elliott  
9 6326 Cedar Flats Road SW  
10 Olympia, Washington 98512

11 **REPRESENTATIVES:**

12 Jeff Synder  
13 218 1/2 4th Avenue W., Suite E  
14 Olympia, Washington 98501

15 **SUMMARY OF REQUEST:** Rezoning of three parcels along Cushing Street NW, located just  
16 south of Harrison Avenue from R6-12 to HDC-3.

17 **PROJECT LOCATION:**

18 123 and 135 Cushing Street NW, Olympia, Washington, 98502, Parcel Nos. 85003701300,  
19 85003701500 and 85003701700.

20 **SUMMARY OF DECISION:**

21 The Hearing Examiner recommends to the City Council that the Cushing Street properties be  
22 rezoned from Residential 6-12 Units per Acre to High Density Corridor 3.

23 **DESCRIPTION OF SITE**

24 The subject property includes two historic homes located on Cushing Street NW a short  
25 distance south of Harrison Avenue and just east of the Harrison/Division Street intersection. All  
adjoining properties to the west and north are commercial properties abutting either Division  
Street or Harrison Avenue. All adjoining properties to the east and south are low density  
residential properties. The subject properties are, therefore, at the meeting point between  
commercial and residential neighborhoods.

The two existing residences are both found on the City's Historical Register: The  
property at 123 Cushing Street NW is referred to as the "McIntyre House". It was constructed in  
the 1890's and was continuously used by the McIntyre family for the next century. The

*[Corrected] Findings of Fact,  
Conclusions of Law,  
Decision and Recommendation  
to City Council - 1*

**CITY OF OLYMPIA HEARING EXAMINER**  
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1 residence at 135 Cushing Street NW is known as the "Adams House". It was constructed by  
2 John Adams around 1900. Mr. Adams immigrated from Finland and was employed for many  
years by the City of Olympia. In the 1960's this residence was converted into a triplex.

3 The owner of these properties has gone to considerable effort to maintain these historic  
4 properties. The owner has also acquired several adjoining parcels on the west half of the block  
abutting Division Street, and has used a portion of these properties to construct a community  
5 park/gathering center/farmer's market.

6 The property's current zoning of R6-12 is intended primarily for residential use but it also  
allows for a small amount of commercial use. The Applicant seeks to rezone the property to  
7 High Density Corridor 3 in order to convert the use of these historic buildings into a small  
restaurant and five-room lodging house.  
8

9 There has been no public opposition to the requested rezoning.

### 10 PUBLIC HEARING

11 Prior to the public hearing I undertook a site examination of the subject properties and the  
surrounding blocks.

12 The public hearing commenced at 6:30 p.m. on Monday, October 10, 2016, in the  
13 Council Chambers in City Hall. The City appeared through Michelle Sadlier and Tim Smith of  
the Planning Department. The Applicant, Alicia Elliott, appeared in person along with her  
14 representative, Jeff Snyder. Only two other members of the public were present but only one  
provided testimony. A verbatim recording was made of the public hearing and all testimony was  
15 taken under oath. Testimony from the City was received from Ms. Sadlier and Mr. Smith.  
16 Testimony from the Applicant was received from Mr. Snyder. In advance of the hearing  
Michelle Sadlier prepared a Staff Report (Exhibit 1) which includes several attachments. No  
17 additional exhibits were received prior to or during the hearing.

18 Ms. Sadlier confirmed that City Staff recommends approval of the change in the site's  
zoning to HDC-3. Ms. Sadlier believes that the request satisfies all five requirements of OMC  
19 18.59.050(a) - (e) for rezone approval. More specifically, Ms. Sadlier believes that the change  
in zoning will be consistent with the Comprehensive Plan; will maintain public health, safety or  
20 welfare; is consistent with Development Regulations; will result in compatible adjacent zoning  
districts and that there are adequate planned or existing public facilities and services.  
21

22 Ms. Sadlier recognizes that, although there has been no public opposition to this  
requested rezone, there is a question as to its consistency with the City's Comprehensive Plan.  
23 More specifically, the Comprehensive Plan's Future Land Use Map identifies the subject  
property as being within an area designated as Low Density Neighborhood. This land use  
24 designation is inconsistent with a zoning designation of High Density Corridor 3. This problem  
is overcome, however, by the Comprehensive Plan's recognition that zoning designations may  
25

*[Corrected] Findings of Fact,  
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1 deviate from the Future Land Use Map by up to two hundred feet. Within two hundred feet of  
2 the subject property, along both its west and north boundaries, are areas designated as "Urban  
3 Corridor" on the Future Land Use Map. A zoning designation of HDC-3 is consistent with the  
4 land use designation of Urban Corridor. In other words, the City's Comprehensive Plan provides  
5 for some measure of flexibility when determining whether a zoning designation is consistent  
6 with the Plan's intended land use and that, relying on this flexibility, the proposed rezoning is  
7 consistent with the Comprehensive Plan's Future Land Use Map.

8  
9 Apart from this issue of consistency with the Future Land Use Map there is no other  
10 significant issue relating to its approval; the City's Planning Commission has voted unanimously  
11 to recommend the rezone; City Staff recommends its approval; and there has been no public  
12 opposition.

13  
14 Ms. Sadlier adds that it is important to remember that even if the subject properties are  
15 rezoned to HDC-3 the buildings themselves remain protected under the City's Historic  
16 Preservation Ordinance. Thus, while rezoning may provide for a longer list of potential uses for  
17 these buildings it will not dramatically affect their appearance or the surrounding grounds and  
18 outbuildings. As a result of their historic recognition only minimal changes to the buildings and  
19 surrounding spaces will be permitted; the buildings historic character must be retained and  
20 preserved; and any deteriorated historic features must be repaired rather than replaced. Rezoning  
21 thus allows these buildings to be put to greater use but not at the expense of eliminating their  
22 historic character.

23  
24 Ms. Sadlier completed her testimony by reviewing the five requirements for rezoning set  
25 forth in OMC 18.59.050 and explained why the rezoning satisfies each requirement, all as set  
forth more fully in the Staff Report.

Following Ms. Sadlier's testimony Jeff Snyder spoke briefly on behalf of the Applicant.  
Mr. Snyder supported the positions taken by City Staff and added that rezoning will provide the  
necessary incentive to ensure that these historic buildings are well maintained.

Only two members of the public were present and only once asked to testify. Robin  
Healy, who lives nearby on Decatur NW, simply wished to express his strong support for the  
rezone.

Again, the proposed rezoning has the unanimous support of the City Planning  
Commission, City Planning Staff and the public. I therefore recommend approval of the  
rezoning and make the following Findings/Conclusions with respect to the five rezoning criteria  
found in OMC 18.59.050:

1. **OMC 18.59.050(a). The rezone is consistent with the Comprehensive Plan  
including the Future Land Use Map.** As noted above, the Future Land Use Map designates the  
subject property as Low Density Residential. This land use designation is not consistent with a

*[Corrected] Findings of Fact,  
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1 zoning designation of HDC-3. The Comprehensive Plan recognizes, however, that properties  
2 within two hundred feet of another land use designation may be appropriate for that other land  
3 use. The subject property is bordered on both the north and west by areas designated as "Urban  
4 Corridor" in the Future Land Use Map. The site is well within two hundred feet of areas west  
5 and north designated as Urban Corridor. HDC-3 zoning is fully compatible with the Urban  
6 Corridor land use designation. The rezoning is therefore consistent with the Future Land Use  
7 Map.

8 The Staff Report, commencing at page 5, contains Findings relating to the project's  
9 consistency with the Comprehensive Plan. City Staff finds that the proposed rezoning is  
10 consistent with the Comprehensive Plan including: GL1 as well as PL1.2 and PL1.6; GL11  
11 together with PL11.3 and PL11.4; GL13 including PL13.5 and PL13.7; GL3 including PL3.2 and  
12 PL3.6; and GL5 including PL5.5 and PL5.8. The Hearing Examiner has reviewed those  
13 proposed Findings and adopts them as his own Findings of Fact and concludes that the proposed  
14 rezone is consistent with the Comprehensive Plan.

15 **2. OMC 18.50.050(b). The rezone will maintain the public, health, safety or  
16 welfare.** As noted in the Staff Report at pages 7 and 8, a rezoning to HDC-3 is unlikely to result  
17 in any substantial redevelopment of the parcels due to their current historic preservation  
18 designation. Improvements to the properties for commercial uses must be made within the  
19 confines of the historic preservation regulations. As a result there will be greater incentive to  
20 restore and maintain these historic properties.

21 Existing roads and public transportation options, as well as sewer, water, solid waste, and  
22 emergency services have all been deemed adequate by City Staff. I therefore conclude that the  
23 rezone will maintain the public health, safety or welfare.

24 **3. OMC 18.59.050(c). The rezone is consistent with other development  
25 regulations that implement the Comprehensive Plan.** As already noted, any modifications to  
the existing buildings must be in accordance with the Historic Preservation Regulations found in  
Chapter 18.12 OMC. These regulations will ensure the historic integrity of the buildings even  
when converted to commercial uses. I therefore conclude that the rezoning is consistent with  
Development Regulations.

**4. OMC 18.59.050(d). The rezone will result in a district that is compatible  
with adjoining zoning districts.** All properties to the north and west of the site are already  
zoned HDC-3. The rezoning is compatible with these adjoining properties. At the same time any  
future development of the site for commercial use will be required to be compatible with the  
residential properties to the south and east. I therefore conclude that the rezoning will result in  
compatible adjacent zoning districts.

**5. OMC 18.59.050(e). Public facilities and services existing and planned for the  
area are adequate and likely to be available to serve potential development allowed by the  
proposed zone.** As previously noted, currently available facilities and services are adequate for  
the intended use of these properties. Water, sewer, solid waste, fire and other emergency

1 services are already provided to the site. The existing street network and transportation  
2 alternatives adequately serve the site, especially when considering when future uses must  
3 maintain the historic integrity of these properties. I therefore conclude that public facilities and  
4 services existing and planned for the area are adequate and likely to be available to serve  
5 potential development allowed by the proposed zone.

6 The first three of these requirements, OMC 18.50.050(a) through (c) are mandatory  
7 requirements for rezone approval, while compliance with subsections (d) and (e) is optional.  
8 Nonetheless, I conclude that the requested rezone to HDC-3 complies with all five requirements,  
9 (a) through (e).

10 DATED this 24<sup>th</sup> day of October, 2016.

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Mark C. Scheibmeir  
City of Olympia Hearing Examiner

