



CITY OF SEATTLE
ANALYSIS AND RECOMMENATION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

Record Number: 3036784-LU
Council File Number: CF # 314461
Applicant Name: Martin Liebowitz
Address of Proposal: 1106 34th Ave

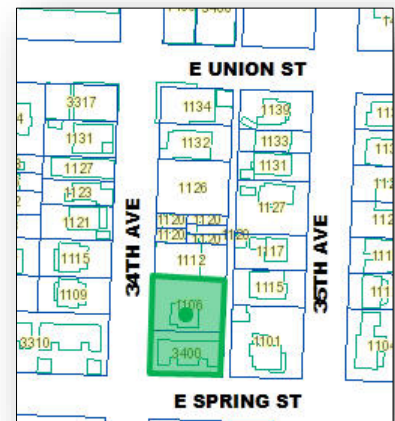
SUMMARY OF PROPOSED ACTION

Extension of original rezone request #3020405-LU. Council Land Use Action to rezone a 4,808 sq. ft. portion of land from LR2 (Lowrise 2) to NC1-30 (M) (Neighborhood Commercial 1 with 30-foot height limit) and a 6,109 sq. ft. parcel of land from LR2 (Lowrise 2) to NC1-30 (M) (Neighborhood Commercial with 30-foot height limit).

The following approvals are required:

Director's Determination on the requested Property Use and Development Agreement (PUDA) amendment — pursuant to Seattle Municipal Code (SMC) 23.76.058.C.

Council Land Use Action — to extend the expiration date established by the contract rezone pursuant to SMC 23.76.060.E.



- SEPA DETERMINATION: [X] Exempt* [] DNS [] MDNS [] EIS
[] DNS with conditions
[] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

*SEPA Determination was issued by SDCI under 302405-LU on June 5th 2017.

BACKGROUND INFORMATION

Martin Liebowitz submitted an application to the Department of Constructions and Inspections (SDCI), dated June 30th 2020, requesting an amendment to a Property Use and Development Agreement (PUDA) and for an extension of the contract rezone time limit at least 120 days before its expiration.

The City Council adopted Ordinance 125433, which granted the original contract rezone and accepted the associated Property Use and Development Agreement (PUDA). The ordinance was signed by Rob Johnson, President Pro Tem of the City Council, on October 9th 2017. The ordinance provided that the contract rezone designation would expire three years after the effective date of the ordinance. The PUDA, which Martin Liebowitz signed, was recorded with the King County Department of Elections and Records (2017111600748), includes a condition stating “...that development of the rezoned property shall be subject to the conditions of the City’s Mandatory Housing Affordability program in SMC Charters 23.58B and 23.58C. The rezone was given a “M” suffix. The requirements for compliance with SMC Chapter 23.58C listed the PUDA as 6% of units or \$13.25 per square foot. The PUDA did not specify the specific compliance requirements for SMC Chapter 23.58B.”

Public Comments

SDCI issued notice of this application pursuant to 23.76.058.C.1-3. The required public comment period was July 16th 2020 through July 29th 2020. SDCI received eleven written comments. Comments against the extension focused on the amount of undeveloped commercial property available, the lack of smaller scale residential development in the area, inadequate vehicle parking available on the street, the negative impact of a large building on residential neighbors, and the amount of commercial/retail density that cannot be assimilated by the neighborhood. The comments also noted concern with the possibility of added traffic to the rights-of-way. Comments for the extension favored having additional commercial spaces and residential units developed in the area.

DIRECTOR’S ANALYSIS, DETERMINATION AND RECOMMENDATION

Martin Liebowitz requests a Property Use and Development Agreement (PUDA) amendment and an extension of the time limit on the Type IV land use decision.

PUDA AMENDMENT

SMC 23.76.058.C explains the procedures and general criteria for the Director to make a determination whether a requested amendment is considered major or minor. *Subsection 23.76.058.C.4 reads as follows:*

4. *The Director shall determine whether the amendment is major or minor. This determination is a Type I decision.*
 - a. *Minor amendments. A minor amendment to a PUDA is one that is within the spirit and general purpose of the prior decision of the Council, is generally consistent with the uses and development standards approved in the prior decision of the Council, would not result in significant adverse impacts that were not anticipated in the prior decision of the Council, and does not request any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements other than those approved in the prior decision of the Council. If the Director determines that a proposed amendment is minor, the Director shall transmit to Council the application to amend, the Director's*

determination that the proposed amendment is minor, any comments received by the Director on the proposed amendment, and the Director's recommendation on the proposed amendment. An application to amend that is minor and that complies with the rezone criteria of Chapter 23.34 may be approved by the Council by ordinance after receiving any additional advice that it deems necessary.

- b. Major Amendments. Applications to amend a PUDA that are not minor are major. Major amendments to a PUDA shall follow the procedures for Type IV Council land use decisions in Sections 23.76.052, 23.76.054, and 23.76.056.*

Extension of Council Land Use Decision

23.76.060 - Expiration and extension of Council land use decisions

E. Extensions. The Council may extend the time limits on Type IV land use decisions for two years or such other time as the Council may determine appropriate, upon an applicant's filing an application to the Department at least 120 days before the approval's expiration. The Council may request a recommendation on the extension application from the Director, but the Hearing Examiner hearing and recommendation requirements of Section 23.76.052 do not apply. Notice of applications for extensions of Type IV land use decisions and an opportunity to comment shall be provided pursuant to subsections 23.76.012.B.1 or B.2, and subsection 23.76.012.B.3, and notice and an opportunity to comment shall also be provided to the parties of record in the Council's original Type IV land use proceeding and to those persons who were provided written notice of the Hearing Examiner's recommendation on the original Type IV application to the extent reasonably practicable.

- 1. The Council may not extend the time limit for a Type IV land use decision for a project that is not in conformance with applicable regulations, including land use and environmentally critical areas regulations, in effect at the time application for an extension is made.*
- 2. In deciding whether to grant an extension, the Council shall consider:*
 - a. The reason or basis for the application for the extension and whether it is reasonable under the circumstances;*
 - b. Whether changed circumstances in the area support an extension;*
 - c. Whether additional time is reasonably necessary to comply with a condition of approval adopted by the Council that is required to be fulfilled prior to expiration of the Council land use decision.*

The request for the Property Use and Development Agreements (PUDA) amendment and extended time limit is within the spirit and general purpose of the prior decision of the Council and is consistent with the uses and development standards approved in the prior decision of the Council.

The applicant explains that he had been unable to find a development partner given the economic recession and uncertainty created by the COVID-19 pandemic. The original rezone was to match adjacent NC1-30 zoning. Since then, the northern adjacent zoning was updated to NC1-40 (M). To allow the rezone to expire and to revert to LR2 zoning would not be in keeping with the pattern

of development intensity established for the block. There are no modifications in development standards proposed or contemplated as part of this request.

The request would not result in significant adverse impacts that were not anticipated in the prior recommendation to Council and would not result in changes to the prior decision by the Council. Impacts would remain unchanged.

After reviewing the request and general criteria set forth in SMC 23.76.058, **the Director has determined that the amendment sought is a minor amendment.** Therefore, this determination is considered a Type I non-appealable decision.

The applicant will also need to secure from the City Council an extension of the zoning designation established by the concurrent contract rezone as provided in SMC 23.76.060.E. Because the Council may extend that time limit for no more than two years, the extension of the related PUDA should be for the same period.

SDCI recommends **approval of the requested extension**, limited to the duration of any Council extension of the underlying contract zone designation.

Colin R. Vasquez, Senior Land Use Planner _____ Date: 10/29/2020
Seattle Department of Construction and Inspections

CRV:

Vasquez/3036784-LU