

To: Johnny Harris, SDCI

CC: Lish Whitson, Council Staff

From: Martin Liebowitz

Date: 6/30/2020

RE: EXTENSION NARRATIVE- for Rezone Extension

Request for Rezone Extension – CF 314325

I. Rezone History

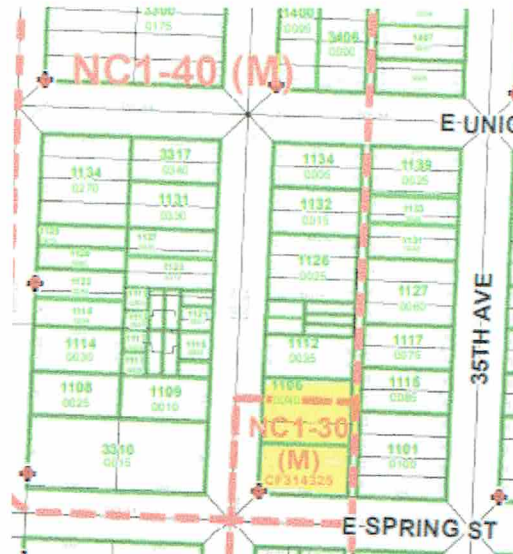
On October 9, 2017, the City Council voted to grant a contract rezone to Martin Liebowitz and 34th and Spring, LLC to rezone property located at 1106 34th Avenue from Lowrise 2 (“LR2”) to Neighborhood Commercial 1 with a 30-foot height limit (“NC1-30”), which was consistent with immediately adjacent zoning. (See SDCI Project No. 3020405, Council File 314325, Council Bill 119091). The effective date for the City Council’s action was 30 days later, on November 8, 2017. See CB 119091. The applicant executed a Property Use and Development Agreement (“PUDA”) as a condition of the rezone approval, which was recorded in the real property records of King County under record number 2017111600748.

A condition of the PUDA is that development of the rezoned property shall be subject to the conditions of the City’s Mandatory Housing Affordability program in SMC Chapters 23.58B and 23.58C. The rezone was given a “M” suffix. The requirements for compliance with SMC Chapter 23.58C listed in the PUDA is 6% of units or \$13.25 per square foot. The PUDA did not specify the specific compliance requirements for SMC Chapter 23.58B.

Subsequently, the City completed the City-wide Mandatory Housing Affordability upzone, which up-zoned property adjacent to the 1106 34th Avenue property and a small sliver of the subject property to NC1-40 (M), but did not change the zoning designation on most of the subject property. It was the applicant’s intention for the zoning on the 1106 34th Avenue

property to match adjacent zoning and for there to be no split-zoned condition, so it was disappointing the City did not further up-zone the subject property.

Here is a depiction of the current zoning designations that apply to the subject property:



II. Request for Rezone Extension

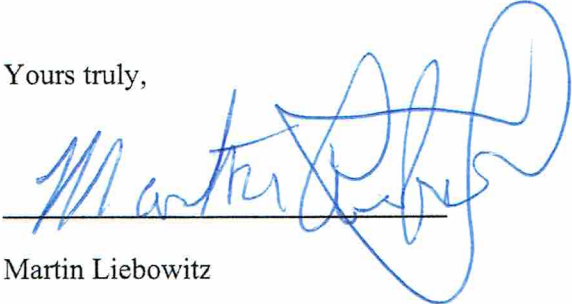
The applicant now seeks extension of the contract rezone pursuant to SMC 23.76.060.C and .E, which state that, except as otherwise provided in the Council decision on the contract rezone, the rezone shall expire three years after the date of the Council action unless the Council extends the rezone upon an applicant’s filing an application at least 120 days before the approval’s expiration. Here, because the City Council action specified that it was not effective until 30 days after approval of the City Council, the date of the “action” for the purposes of expiration is November 8, 2020. This application is being submitted prior to July 11, 2020, so it is submitted more than 120 days prior to rezone expiration.

The criteria the Council must consider in extending the rezone support this action. First, the rezone is in conformance with applicable regulations. *See* SMC 23.76.060.E.1. The PUDA requires compliance with the Mandatory Housing Affordability program and SMC Chapters 23.58B and 23.58C. This is in conformance with current rezone requirements. *See* SMC 23.34.004.B. A master use permit for new development will also be subject to the current land use code.

Second, there is good reason to support the extension. The applicant desires to move forward with a development project that takes advantage of the current zoning designation, but has been unable to find a development partner given the economic recession and uncertainty created by the COVID-19 pandemic. Further, changed circumstances in the area continue to support the rezone. The original rezone was to match adjacent NC1-30 zoning. Since then, the immediately

adjacent zoning was updated to NC1-40 (M), which is even more dense. To allow the rezone to expire and to revert to LR2 zoning would not be in keeping with the pattern of development intensity the City has established for the block.

Yours truly,



A handwritten signature in blue ink, appearing to read "Martin Liebowitz", is written over a horizontal line. The signature is stylized and somewhat cursive.

Martin Liebowitz