

December 7, 2020

## MEMORANDUM

**To:** Land Use and Neighborhoods Committee  
**From:** Ketil Freeman, Analyst  
**Subject:** Clerk File 314461 - Application of Martin Liebowitz and 34th and Spring, LLC for an extension of the contract rezone of the property at 1106 34th Avenue. Original contract rezone application approved through CF 314325 and Ordinance 125433.

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On December 9, the Land Use and Neighborhoods (LUN) Committee will hear public comment and discuss an application by Martin Liebowitz (the Applicant) on behalf of 34<sup>th</sup> and Spring, LLC to extend a contract rezone approved by the City Council in 2017. Materials related to the requested extension are filed in [Clerk File \(CF\) 314461](#).

This memorandum (1) provides background information on the rezone and extension request; (2) describes the type of action and criteria the Council uses in considering a rezone extension; and (3) discusses next steps for Committee action on CF 314461.

### Background

In 2017 the Council passed [Ordinance 125433](#), which:

- Rezoned an approximately 11,000 square foot site in the Madrona neighborhood from Lowrise 2 (LR2) multifamily residential to Neighborhood Commercial 1 with a 30-foot height limit and M Mandatory Housing Affordability (MHA) suffix (NC130 (M)); and
- Accepted a Property Use and Development Agreement (PUDA) that imposes conditions on future development of the site.

The rezone application did not have an associated permit application for a development project.

The rezone site is located at the northeast corner of the intersection of 34<sup>th</sup> Avenue and Spring Street. The site is currently developed with a single-family house and a four-plex. Zoning to the east of the site is Single-family 5000 (SF 5000). The LR2 zoning extends south across East Spring Street. The area immediately north of the site and west of the site across 34<sup>th</sup> Street is zoned commercial. The height and density of adjacent zoning, except SF 5000 zoning, was increased in 2018 through [Ordinance 125791](#), which implemented the MHA program citywide.

The Applicant, who has been unable to find a development partner for the site due to the pandemic, applied to the Seattle Department of Construction and Inspections (SDCI) for a two-

year rezone extension in July 2020. On October 29, 2020, SDCI recommended that the Council approve the extension. See attachment 1.

### **Type of Action and Extension Criteria**

A Council decision on contract rezone extensions is quasi-judicial. However, unlike most quasi-judicial decisions, for which the Hearing Examiner holds an open record hearing and establishes a record for the Council's review, for extension requests SDCI first determines whether the request is for a major or minor amendment to a PUDA. If SDCI determines the request is for a minor amendment, SDCI's recommendation is submitted directly to the Council without review by the Hearing Examiner or opportunity for appeal, which is the case for this extension.

Because there is no open record hearing at the Hearing Examiner, the Council may hear comment from parties-of-record on the rezone extension. Parties of record include those persons who submitted comments to SDCI. Comments received by SDCI are attached (see attachment 2).

[Seattle Municipal Code Section 23.76.060.E](#) provides three criteria for Council consideration of contract rezone extensions:

1. The reason or basis for the application for the extension and whether it is reasonable under the circumstances;
2. Whether changed circumstances in the area support an extension;
3. 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 SDCI recommendation to approve the extension is based on (1) how the pandemic has negatively impacted the real estate industry and (2) the changed circumstance for the neighborhood from passage of the MHA implementation legislation, which increased height and density for most adjacent properties.

### **Next Steps**

The LUN Committee will discuss and may vote on the rezone extension request at its January 13, 2021 meeting. Approval of the extension would require an ordinance extending the contract rezone term and accepting an amended PUDA. A draft bill and amended PUDA are attached. The bill could be introduced prior to the next meeting to allow Committee action. See attachment 3.

**Attachments:**

1. SDCI Recommendation. October 29, 2020.
2. Extension Request and Combined Public Comment
3. Draft Bill and PUDA amendment

cc: Dan Eder, Interim Director  
Aly Pennucci, Supervising Analyst



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

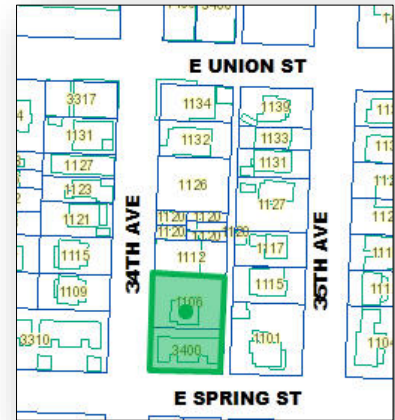
SUMMARY OF PROPOSED ACTION

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 9<sup>th</sup> 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 16<sup>th</sup> 2020 through July 29<sup>th</sup> 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

**Page 4 of 4**  
**Record No. 3036784-LU**

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

**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.

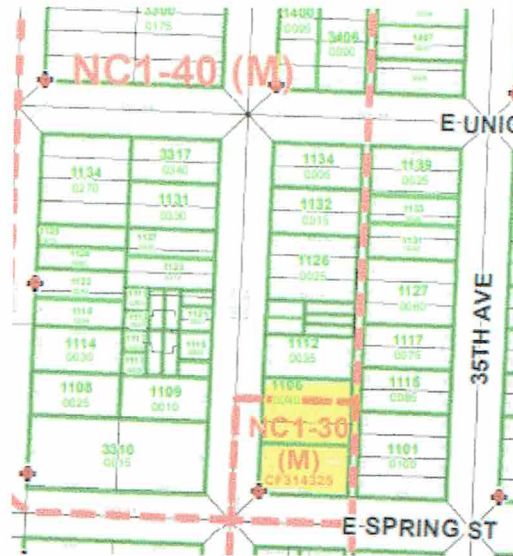
A condition of the PUDA is that development of the rezoned property shall be subject to the conditions of the City’s Mandatory Housing Affordability program in SMC Chapters 23.58B and 23.58C. The rezone was given a “M” suffix. The requirements for compliance with SMC Chapter 23.58C listed in the PUDA 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

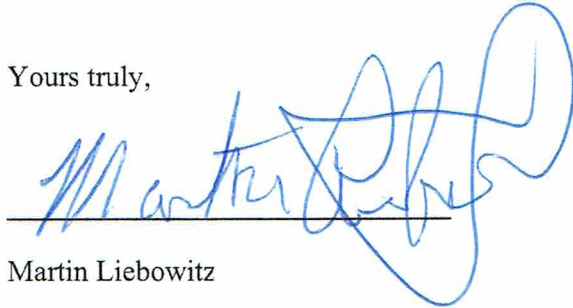
The applicant now seeks extension of the contract rezone pursuant to SMC 23.76.060.C and .E, which state that, except as otherwise provided in the Council decision on the contract rezone, the rezone shall expire three years after the date of the Council action unless the Council extends the rezone upon 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

✓drm

Project # 3036784-LU DRM

CURRENT RESIDENT  
1131 34TH AVE  
SEATTLE WA 98122

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If you wish to file written comments and/or receive a notice of the decision, please return this completed form with any written comments you have to: Department of Construction & Inspections, 700 Fifth Ave., Suite 2000, P.O. Box 34019, Seattle, WA 98124-4019 or e-mail [PRC@seattle.gov](mailto:PRC@seattle.gov)

RECEIVED  
JUL 27 2020

Project: #3036784-LU Colin Vasquez, (206) 684-5639 Floor SMT 19

Name: Brianne

Address: 1131 34th ave Seattle

Zip: 98122

Email Address: b.ingertila@comcast.net

Comment: This would be an absolute devastation to the small, quaint neighborhood of Madrona. The Liebowitz family does nothing to help better the community. They have a horrible reputation up here with how they treat the commercial and residential tenants. They are some of the shadiest people I've ever come across and only care about their \$. They have kicked out single mothers for noise complaints over newborn babies crying. Later to find out their apartment was never insulated correctly. They put competing businesses right next to each other trying to run other tenants out. They have had several harassment complaints. They cheat contractors out of not paying them correctly. Their buildings are so cheaply and terribly built and are an eye sore on the street. Please do not let this family ruin our neighborhood.



Application for project 3036784-LU

Seattle Department of Construction and Inspections (Seattle DCI) is currently reviewing the Master Use Permit application described below.

Project Number: 3036784-LU

Address: 1106 34TH AVE
Area: Downtown/Central
Zone: NC1-30 (M), NC1-40 (M)

Date of Application: 07/08/2020
Date Application Deemed Complete: 07/08/2020

Applicant Contact: MARTIN LIEBOWITZ - 206-325-0422
SDCI Planner: COLIN VASQUEZ - (206) 684-5639

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

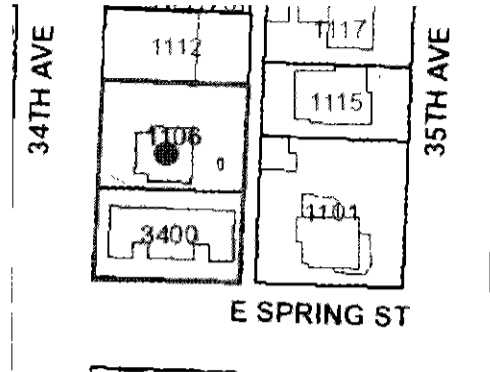
Comments may be submitted through: 07/29/2020

The following approvals are required:

Council Rezone Permit Renewal to rezone from Lowrise 2 to Neighborhood Commercial 1 with 30-foot height limit (LR2 to NC1-30').

Other permits that may be needed which are not included in this application:

N/A



The top of this image is north. This map is for illustrative purposes only. In the event of omissions, errors or differences, the documents in Seattle DCI's files will control.

Your written comments are encouraged and should be submitted to:

PRC@seattle.gov
Department of Construction & Inspections
ATTN: Public Resource Center
P.O. Box 34019
Seattle, WA 98124-4019

Commenters providing an email address or return US mail address will be sent notice of any public meetings or hearings and notice of the SDCI decision with information on the right to appeal. All correspondence will be posted to our electronic library.

Applications requiring shoreline approvals are subject to an initial 30-day comment period. All other land use approvals listed below are subject to an initial 14-day comment period. A 14 day comment period may be extended an additional 14 days provided a written request to extend the comment period is received by this Department within the initial 14-day comment period as published in this bulletin. Any comments filed after the end of the official comment period may be considered if pertinent to the review being conducted.

The project file, including application plans, environmental documentation and other additional information related to the project, is available in our electronic library at Seattle Services Portal. Public computers, to view these files, are available at the SDCI Public Resource Center, 700 Fifth Avenue, Suite 2000. The Public Resource Center is open 8:00 a.m. to 4:00 p.m. on Monday, Wednesday, Friday and 10:30 a.m. to 4:00 p.m. on Tuesday and Thursday.

Questions about the projects listed in this bulletin can also be directed to the Public Resource Center at the email and US mail address listed above. To the extent known by the Department, other necessary government approvals or permits not included in the application will also be listed. When a building permit is listed as being necessary, this may include associated electrical, plumbing, mechanical, elevator, and other similar permits.

SDCI is now using the Early Review Determination of Non-significance (DNS) process for all applications requiring a threshold determination when SDCI has reasonable basis to believe that significant adverse impacts are not likely, and the Director expects to issue a DNS for the proposal. The DNS is not final until it is published following consideration of all comments received during the comment period.

The comment period for a project subject to an Early Review DNS may be the only opportunity to submit comment on the environmental impacts of the proposal. Mitigation measures may be imposed on projects subject to the Early Review DNS process. After the close of the comment period, SDCI will review any comments and will either issue a DNS followed by an opportunity to appeal, or, if significant environmental impacts are identified, a DS/Scoping notice. Copies of the subsequent threshold determination for the proposal may be obtained upon request or from our electronic library at Seattle Services Portal.

Numbers used in project descriptions are approximations. The final approved plans will control.

Interpretations

A formal decision as to the meaning, application or intent of any development regulation in Title 23 (Land Use Code) or Chapter 25 09 (Regulations for Environmentally Critical Areas) is known as an "interpretation". Examples include questions of how structure height or setback is properly measured, or how a proposed use should be categorized.

Interpretation may be requested by any party during the comment period as determined above. The request must be in writing, and accompanied by a \$3,940.00 minimum fee payable to the City of Seattle (This fee covers the first ten hours of review. Additional hours will be billed at \$394.00.). Interpretations on some issues may also be requested later, during the appeal period, if the project decision is appealed. Failure to request an interpretation can preclude raising the issue on appeal. Questions regarding the interpretation process may be sent to PRC@seattle.gov (please include "Interpretation Information" in the subject line) or by calling the message line at (206) 684-8467. Requests for interpretation may be submitted to the Seattle Department of Construction and Inspections, Code Interpretation and Implementation Group, 700 5th Av Ste 2000, P.O. Box 34019, Seattle, WA 98124-4019.

✓ DRM

Project # 3036784-LU DRM

PAYTON HELEN E  
918 34TH AVE  
SEATTLE WA 98122

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RECEIVED

JUL 29 2020

Project: #3036784-LU Colin Vasquez, (206) 684-5639 Floor SMT 19

Name: Helen Payton

Address: 918 34th Ave

Seattle Zip: 98122

Email Address: jakosp44@gmail.com

Comment: \_\_\_\_\_

Marty Liebowitz has proven that he plans well and subsequently initiates great plans in Madrona and on MtK. I appreciate his foresight in developing this property and believe it will complement other structures in the neighborhood.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Application for project 3036784-LU

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Address: 1106 34TH AVE

Area: Downtown/Central

Zone: NC1-30 (M), NC1-40 (M)

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Applicant Contact: MARTIN LIEBOWITZ - 206-325-0422

SDCI Planner: COLIN VASQUEZ - (206) 684-5639

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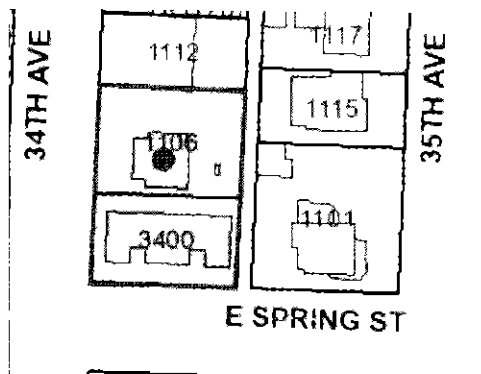
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✓ DRM

Project # 3036784-LU DRM

MACLEOD JON+HULSEY JAYNE  
1700 7TH AVE APT # 2100  
SEATTLE WA 98101

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Project: #3036784-LU Colin Vasquez, (206) 684-5639 Floor SMT 19

Name: Jon MacLeod

Address: 1107 36th Avenue

Zip: 98122

Email Address: jonmacleod1@gmail.com

Comment: \_\_\_\_\_  
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SDCI Planner: COLIN VASQUEZ - (206) 684-5639

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

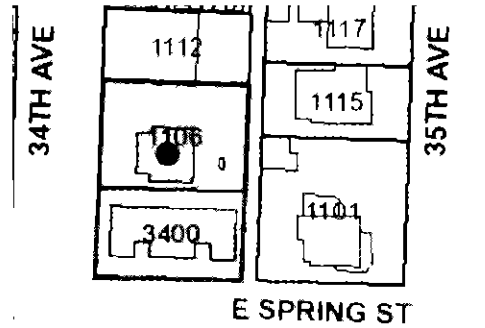
Comments may be submitted through: 07/29/2020

The following approvals are required:

Council Rezone Permit Renewal to rezone from Lowrise 2 to Neighborhood Commercial 1 with 30-foot height limit (LR2 to NC1-30').

Other permits that may be needed which are not included in this application.

N/A



The top of this image is north. This map is for illustrative purposes only. In the event of omissions, errors or differences, the documents in Seattle DCI's files will control.

Your written comments are encouraged and should be submitted to:

PRC@seattle.gov
Department of Construction & Inspections
ATTN: Public Resource Center
P.O. Box 34019
Seattle, WA 98124-4019

Commenters providing an email address or return US mail address will be sent notice of any public meetings or hearings and notice of the SDCI decision with information on the right to appeal. All correspondence will be posted to our electronic library.

Applications requiring shoreline approvals are subject to an initial 30-day comment period. All other land use approvals listed below are subject to an initial 14-day comment period. A 14 day comment period may be extended an additional 14 days provided a written request to extend the comment period is received by this Department within the initial 14-day comment period as published in this bulletin. Any comments filed after the end of the official comment period may be considered if pertinent to the review being conducted.

The project file, including application plans, environmental documentation and other additional information related to the project, is available in our electronic library at Seattle Services Portal. Public computers, to view these files, are available at the SDCI Public Resource Center, 700 Fifth Avenue, Suite 2000. The Public Resource Center is open 8:00 a.m. to 4:00 p.m. on Monday, Wednesday, Friday and 10:30 a.m. to 4:00 p.m. on Tuesday and Thursday.

Questions about the projects listed in this bulletin can also be directed to the Public Resource Center at the email and US mail address listed above. To the extent known by the Department, other necessary government approvals or permits not included in the application will also be listed. When a building permit is listed as being necessary, this may include associated electrical, plumbing, mechanical, elevator, and other similar permits.

SDCI is now using the Early Review Determination of Non-significance (DNS) process for all applications requiring a threshold determination when SDCI has reasonable basis to believe that significant adverse impacts are not likely, and the Director expects to issue a DNS for the proposal. The DNS is not final until it is published following consideration of all comments received during the comment period.

The comment period for a project subject to an Early Review DNS may be the only opportunity to submit comment on the environmental impacts of the proposal. Mitigation measures may be imposed on projects subject to the Early Review DNS process. After the close of the comment period, SDCI will review any comments and will either issue a DNS followed by an opportunity to appeal, or, if significant environmental impacts are identified, a DS/Scoping notice. Copies of the subsequent threshold determination for the proposal may be obtained upon request or from our electronic library at Seattle Services Portal.

Numbers used in project descriptions are approximations. The final approved plans will control.

Interpretations

A formal decision as to the meaning, application or intent of any development regulation in Title 23 (Land Use Code) or Chapter 25.09 (Regulations for Environmentally Critical Areas) is known as an "interpretation". Examples include questions of how structure height or setback is properly measured, or how a proposed use should be categorized.

Interpretation may be requested by any party during the comment period as determined above. The request must be in writing, and accompanied by a \$3,940.00 minimum fee payable to the City of Seattle (This fee covers the first ten hours of review. Additional hours will be billed at \$394.00.). Interpretations on some issues may also be requested later, during the appeal period, if the project decision is appealed. Failure to request an interpretation can preclude raising the issue on appeal. Questions regarding the interpretation process may be sent to PRC@seattle.gov (please include "Interpretation Information" in the subject line) or by calling the message line at (206) 684-8467. Requests for interpretation may be submitted to the Seattle Department of Construction and Inspections, Code Interpretation and Implementation Group, 700 5th Av Ste 2000, P.O. Box 34019, Seattle, WA 98124-4019.



July 24, 2019

Dept. of Construction & Inspections  
700 5th Avenue - Ste. 2000  
P.O. Box 34019  
Seattle, Washington 98124-4019  
Attn: Colin Vasquez - SMT 19

**RECEIVED**

**JUL 27 2020**

Project: 3036784-LU

Dear Colin:

This rezone would create dangerous conditions on 34th & Marion. This project is a very short block from St. Teresa School. Marion is a very narrow street, really only room for one direction at a time, difficult at the best of times, as is 35th Avenue north of Marion. During drop-off and pick-up of children from school, it is extremely congested, virtually impassable.

Parking in the neighborhood, just for the people who live there, is already very tight even at night. Add in numerous restaurants, e.g., Red Cow, Hi-Spot, Turkuaz, Madrona Arms, Soleil, Cupcake Royale, etc., etc., plus many other local businesses, e.g., dentist, yoga studio, wine shop, etc., and there often isn't a spot to be found within a two, often three, block radius of 34th & Union.

A much bigger building, 30' high, at a very congested intersection, and adjacent to very narrow streets, will make an already difficult situation much worse, and much more dangerous for the many small children crossing 34th and crossing Marion to and from St. Teresa and Madrona Playfield.

Marty Liebowitz has done a number of large apartment projects in the Madrona business district, but one more is one too many. This rezone project by itself may seem innocuous, but there is a cumulative effect, a tipping point, in a process that at the start did improve the neighborhood, but now becomes a big negative on the quality of life and the safety of children. Enough is enough.

Mr. Liebowitz can build a very nice building and make a profit without exceeding the current height limit.

Sincerely,

  
Jon MacLeod  
1107 36th Avenue

**From:** Leila Kirske  
**To:** [PRC](#)  
**Subject:** Fwd: Response re: Land Use Action #3036784-LU  
**Date:** Sunday, July 19, 2020 9:17:09 AM  
**Attachments:** [Rezone letter July 2020.docx](#)

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**CAUTION: External Email**

----- Forwarded message -----

**From:** **Leila Kirske** <[lkirske@gmail.com](mailto:lkirske@gmail.com)>  
**Date:** Sat, Jul 18, 2020 at 9:08 PM  
**Subject:** Response re: Land Use Action #3036784-LU  
**To:** Vasquez, Colin <[Colin.Vasquez@seattle.gov](mailto:Colin.Vasquez@seattle.gov)>, <prc@seattle.go>

Attached please find my letter in opposition to the proposed rezone. Please include me on the distribution of correspondence on this project.

Best regards,

Leila Kirske

Leila L Kirske  
1101 35<sup>th</sup> Avenue  
Seattle, WA 98122

July 18, 2020

Department of Planning and Development  
ATTN: Public Resource Center Assigned Planner  
700 5th Avenue, Ste 2000  
PO Box 34019  
Seattle, WA 98124-4019

Re: Project 3036784-LU

I am writing to express my continued opposition to the rezone of the property described in the above-named project. While development of the property would be beneficial to the neighborhood, the best and most appropriate use would be residential development under the current LR2 zoning.

Per 23.34.018 - Low-rise 2 (LR2) zone is expected to provide a variety of multifamily housing types in existing multifamily neighborhoods, along arterials that have a mix of small-scale residential structures. This definition suits the Madrona neighborhood as it is primarily a residential neighborhood that is augmented by a small number of low-rise multi-family buildings centered at 34<sup>th</sup> & Union. The area does not draw a significant number of visitors from outside of the neighborhood due to its relatively small size, lack of parking and due to the prolific number of neighboring communities that are more fully developed and which have the physical capacity for a broader range of retail and services. The neighborhood would be enhanced by the development of townhomes and other mixed residential housing that would provide a bridge between single family residential and the existing (and slated for development multi-family projects). This would enhance the multifamily neighborhood for low scale and density per the zoning regulations. Specifically, LR2 zoning supports the stated criterion of:

- Smaller scale structures that are compatible in scale with existing single family and commercial zones. The central Madrona business district is only two short blocks on 34<sup>th</sup> avenue that is bordered by single family residences to the East and West and community parks to the North and South. Existing structures are generally one to two stories high.
- LR2 zoning supports the gradual transition between single family residences and the existing neighborhood commercial zones. The corner of 34<sup>th</sup> & Union resides in the middle of the business district, with the "Amara" building slated for development in the future. Maintaining the LR2 zoning of the above noted property would allow a gradual transition from this central density at Union to the single-family homes on Spring that are located at the outward borders. Other boundaries of this commercial zone are parks.
- The area is characterized by local access and circulation conditions as it is a single-family neighborhood. The neighborhood does not attract large volumes of shoppers and restaurant

goers from other neighborhoods – in the manner of Madison Park, Ballard or Greenwood. As such it best accommodates accommodate low density multifamily development.

- Aside from the arterial on 34<sup>th</sup> avenue, the surrounding streets are extremely narrow and cannot accommodate further increases in vehicular circulation. Existing traffic already heavily utilizes single family residential streets, which can only accommodate one direction at a time. These streets, particularly, 35<sup>th</sup> Avenue and the side streets of Spring and Union are so narrow that automobile traffic can barely pass through. Oftentimes cars are required to travel in reverse in order to address oncoming vehicles. On more than one occasion, emergency and fire vehicles have not been able to support resident emergency calls in the areas surrounding 35<sup>th</sup> & Union. Neighbors without off-street parking are routinely displaced, having to park 2 or more blocks from their homes. This is both an inconvenience and a safety issue.
- The area is currently adequately supported by existing or projected facilities and services used by residents. The area is bordered by two parks, Al Larkin and Madrona Elementary. The St. Therese Park is also frequently utilized by residents. Garfield community center is approximately one mile away. Bus service by the #2 and #3 provides easy access to the Garfield community center, downtown Seattle, as well as Lake Washington.

Per 23.34.074 - Neighborhood Commercial 1 (NC1) zones, function are designed to achieve convenience retail sales and services to a residential neighborhood. The area surrounding 34<sup>th</sup> & Union is a dense residential neighborhood that is not a destination site for retail shopping. There is inadequate weekday daytime population to support more than a handful of businesses. Further, retail needs are supported by nearby shopping centers – Union & MLK and Capitol Hill. As the area is well supported by the #2 and #3 bus lines, the majority of retail needs is served by a short bus ride to Capitol Hill or downtown Seattle.

As noted in my previous letter, existing commercial sites have not been absorbed. To be specific, a large retail space continues to be vacant, more than two years after the exit of the last tenant. Further, newly constructed live-work buildings have not enhanced the community as the majority are closed to the public, with blinds drawn. The majority of these spaces are used as residential facilities. A couple sites appear to have businesses operating on the main floor, however none offer services to the neighborhood community. The livability and walkability of the neighborhood has not been enhanced by these developments. Increasing the number of such developments by up-zoning will be a detriment to the neighborhood.

The function of NC1 is to support or encourage a small shopping area that provides primarily convenience retail sales and services to the adjoining residential neighborhood. The zoning specifies the ability to create a number of small neighborhood serving businesses which continuous storefronts in an atmosphere that is attractive to pedestrians. However these characteristics cannot be effectively met by the up-zoning request. The neighborhood is unable to absorb the capacity of commercial space and many storefronts have remained empty for years at a time. Or contain businesses that are not open to the public. Many businesses close their doors within a year. Currently, the commercial/multi-family building across from the proposed site has parking access on 34<sup>th</sup> Avenue which breaks up the

walkability of the environment and does not support the door-to-door retail atmosphere attractive to pedestrians.

Locational Criteria for NC1 states that it is most appropriate on land that is generally characterized by being outside of urban villages or isolated or peripheral to the primary business district and with limited transit service. The site does not meet this characteristic as it is supported by more robust commercial and retail services at 23rd & Union, MLK and Union, MLK and Cherry. Further, the area is well served by the #2 and #3 buses which run frequently as well as the #8 which can be accessed at MLK and Union.

Finally, the petitioner has not provided plans to support their development. With such an open-ended request, there is no guarantee that the resulting structures will assimilate respectfully into the neighboring landscape. Over the past 20 years, the landowner has allowed the property to decay and un maintained landscaping is a fire hazard and haven for rodents.

Rezone of the property and a further increase to commercial development would negatively impact the community which has not been able to support commercial properties to date, let alone the potential increase once 33<sup>rd</sup> Avenue is developed and activated. Neighbors surrounding this small commercial area have become increasingly negatively impacted due to increased traffic and lack of parking. Most concerning are the narrow streets and the inability of fire and emergency vehicles to enter 34<sup>th</sup> Avenue at Spring and support the residents in the area.

Thank you for your consideration.

Leila Kirske

**From:** Leila Kirske  
**To:** [PRC](#)  
**Subject:** Re: Response re: Land Use Action #3036784-LU  
**Date:** Wednesday, July 22, 2020 9:53:43 AM  
**Attachments:** [image002.png](#)

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**CAUTION: External Email**

Re: Project 3036784-LU

I am writing to express my continued opposition to the rezone of the property described in the above-named project. While development of the property would be beneficial to the neighborhood, the best and most appropriate use would be residential development under the current LR2 zoning.

Per 23.34.018 - Low-rise 2 (LR2) zone is expected to provide a variety of multifamily housing types in existing multifamily neighborhoods, along arterials that have a mix of small-scale residential structures. This definition suits the Madrona neighborhood as it is primarily a residential neighborhood that is augmented by a small number of low-rise multi-family buildings centered at 34<sup>th</sup> & Union. The area does not draw a significant number of visitors from outside of the neighborhood due to its relatively small size, lack of parking and due to the prolific number of neighboring communities that are more fully developed and which have the physical capacity for a broader range of retail and services. The neighborhood would be enhanced by the development of townhomes and other mixed residential housing that would provide a bridge between single family residential and the existing (and slated for development multi-family projects). This would enhance the multifamily neighborhood for low scale and density per the zoning regulations. Specifically, LR2 zoning supports the stated criteria of:

- Smaller scale structures that are compatible in scale with existing single family and commercial zones. The central Madrona business district is only two short blocks on 34<sup>th</sup> avenue that is bordered by single family residences to the East and West and community parks to the North and South. Existing structures are generally one to two stories high.
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- The area is characterized by local access and circulation conditions as it is a single-family neighborhood. The neighborhood does not attract large volumes of shoppers and restaurant goers from other neighborhoods – in the manner of Madison Park, Ballard or Greenwood. As such it best accommodates low density multifamily development.
- Aside from the arterial on 34<sup>th</sup> avenue, the surrounding streets are extremely narrow and cannot accommodate further increases in vehicular circulation. Existing traffic already heavily utilizes single family residential streets, which can only accommodate one direction at a time. These streets, particularly, 35<sup>th</sup> Avenue and the side streets of Spring and Union are so narrow that automobile traffic can barely pass through. Oftentimes cars are required to travel in reverse in order to address oncoming vehicles. On more than one occasion, emergency and fire vehicles have not been able to support resident emergency calls in the areas surrounding 35<sup>th</sup> & Union. Neighbors without off-street parking are routinely displaced, having to park 2 or more blocks from their homes. This is both an inconvenience and a safety issue.
- The area is currently adequately supported by existing or projected facilities and services used by residents. The area is bordered by two parks, Al Larkin and Madrona Elementary.

The St. Therese Park is also frequently utilized by residents. Garfield community center is approximately one mile away. Bus service by the #2 and #3 provides easy access to the Garfield community center, downtown Seattle, as well as Lake Washington.

Per 23.34.074 - Neighborhood Commercial 1 (NC1) zones, functions are designed to achieve convenience retail sales and services to a residential neighborhood. The area surrounding 34<sup>th</sup> & Union is a dense residential neighborhood that is not a destination site for retail shopping. There is an inadequate weekday daytime population to support more than a handful of businesses. Further, retail needs are supported by nearby shopping centers – Union & MLK and Capitol Hill. As the area is well supported by the #2 and #3 bus lines, the majority of retail needs is served by a short bus ride to Capitol Hill or downtown Seattle.

As noted in my previous letter, existing commercial sites have not been absorbed. To be specific, a large retail space continues to be vacant, more than two years after the exit of the last tenant. Further, newly constructed live-work buildings have not enhanced the community as the majority are closed to the public, with blinds drawn. The majority of these spaces are used as residential facilities. A couple sites appear to have businesses operating on the main floor, however none offer services to the neighborhood community. The livability and walkability of the neighborhood has not been enhanced by these developments. Increasing the number of such developments by up-zoning will be a detriment to the neighborhood.

The function of NC1 is to support or encourage a small shopping area that provides primarily convenience retail sales and services to the adjoining residential neighborhood. The zoning specifies the ability to create a number of small neighborhoods serving businesses with continuous storefronts in an atmosphere that is attractive to pedestrians. However these characteristics cannot be effectively met by the up-zoning request. The neighborhood is unable to absorb the capacity of commercial space and many storefronts have remained empty for years at a time. Or contain businesses that are not open to the public. Many businesses close their doors within a year. Currently, the commercial/multi-family building across from the proposed site has parking access on 34<sup>th</sup> Avenue which breaks up the walkability of the environment and does not support the door-to-door retail atmosphere attractive to pedestrians.

Locational Criteria for NC1 states that it is most appropriate on land that is generally characterized by being outside of urban villages or isolated or peripheral to the primary business district and with limited transit service. The site does not meet this characteristic as it is supported by more robust commercial and retail services at 23rd & Union, MLK and Union, MLK and Cherry. Further, the area is well served by the #2 and #3 buses which run frequently as well as the #8 which can be accessed at MLK and Union.

Finally, the petitioner has not provided plans to support their development. With such an open-ended request, there is no guarantee that the resulting structures will assimilate respectfully into the neighboring landscape. Over the past 20 years, the landowner has allowed the property to decay and un maintained landscaping is a fire hazard and haven for rodents.

Rezone of the property and a further increase to commercial development would negatively impact the community which has not been able to support commercial properties to date, let alone the potential increase once 33<sup>rd</sup> Avenue is developed and activated. Neighbors surrounding this small commercial area have become increasingly negatively impacted due to increased traffic and lack of parking. Most concerning are the narrow streets and the inability of fire and emergency vehicles to enter 34<sup>th</sup> Avenue at Spring and support the residents in the area.

Thank you for your consideration.

Leila Kirske

On Wed, Jul 22, 2020 at 8:24 AM PRC <[PRC@seattle.gov](mailto:PRC@seattle.gov)> wrote:

Hello Leila,

Please submit any comments either in the body of the email or in PDF format. We are unable to attach Word documents to our file system, and this format is inaccessible to community members who may lack the software.

Thank you,



Public Resource Center

Land Use Division

City of Seattle [Department of Construction and Inspections](#)

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**From:** Vasquez, Colin <[Colin.Vasquez@seattle.gov](mailto:Colin.Vasquez@seattle.gov)>  
**Sent:** Monday, July 20, 2020 7:16 AM  
**To:** PRC <[PRC@seattle.gov](mailto:PRC@seattle.gov)>; Leila Kirske <[lkirske@gmail.com](mailto:lkirske@gmail.com)>  
**Subject:** Response re: Land Use Action #3036784-LU

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**From:** Leila Kirske <[lkirske@gmail.com](mailto:lkirske@gmail.com)>  
**Sent:** Saturday, July 18, 2020 9:08 PM  
**To:** Vasquez, Colin <[Colin.Vasquez@seattle.gov](mailto:Colin.Vasquez@seattle.gov)>; [prc@seattle.gov](mailto:prc@seattle.gov)  
**Subject:** Response re: Land Use Action #3036784-LU

CAUTION: External Email



Attached please find my letter in opposition to the proposed rezone. Please include me on the distribution of correspondence on this project.

Best regards,

Leila Kirske

**From:** [pepitre82@yahoo.com](mailto:pepitre82@yahoo.com)  
**To:** [PRC](#)  
**Subject:** (Shaping Seattle) Comment about Project 3036784-LU at 1106 34TH AVE  
**Date:** Thursday, October 15, 2020 9:34:53 AM

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This property obstructs the alley way and hinders both business and personal access. The owner of this property has put up a fence that blocks the alley access and has allowed tenants to park at the south end of the alley in way that does not allow access traveling North. For this project to gain clearance, the owner of these parcels of land must be required to open the alley and to stop hindering traffic to businesses and residences.

**WRITTEN COMMENT**

From: Sarah Banks  
sarahb@saranjan.com

7/27/2020

To: SDCI  
[PRC@seattle.gov](mailto:PRC@seattle.gov)

RE: Project Number 3036784-LU  
Address: 1106 34<sup>th</sup> Avenue, Seattle, WA

I support this Application. Extending the time period for this rezone, due to delays resulting from the Covid-19 crises, should be approved. The small Madrona Business District needs help in maintaining its vitality. A new mixed-use building at this location will contribute to this goal, by adding additional residential and commercial space to the District.

Yours truly,  
Sarah Banks

**PRC**

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**From:** Jania Garcia <janiag@gmail.com>  
**Sent:** Monday, July 27, 2020 7:45 PM  
**To:** PRC  
**Subject:** written comment supporting rezone extension for project # 3036784-LU  
  
**Categories:** Matthew

**CAUTION: External Email**

**WRITTEN COMMENT**  
**Supporting Rezone Extension Application**

From: Jania Garcia  
[janiag@gmail.com](mailto:janiag@gmail.com)  
1608 B 37th Ave.  
Seattle WA 98122

Date: 7/27/2020

To: SDCI  
[PRC@seattle.gov](mailto:PRC@seattle.gov)

Attn: Colin Vasquez

Concerning: Project Number 3036784-LU  
Address: 1106 34<sup>th</sup> Avenue, Seattle, WA

Please extend the time period for this contract rezone for an additional 3 years.

According to the SEPA Application from the original application for this rezone, NC zoning is the most appropriate zoning classification for this site. Small business districts need an adequate quantity of mixed-use zoned property to allow them to thrive and be vibrant places to visit and shop. Maintaining the NC zoning of this site to match the adjacent NC zoning on the rest of the block would help accomplish this goal.

Thank you,  
Janina Garcia

**WRITTEN COMMENTS**  
(In Support of Application)

Date: 7/27/2020

To: Colin Vasquez  
SDCI, Seattle Department of Construction & Inspection  
[PRC@seattle.gov](mailto:PRC@seattle.gov)

RE: Project Number 3036784-LU  
1106 34<sup>th</sup> Avenue, Seattle, Wa.

My name is Scott Enderle. I lived in the Madrona Business District for a number of years and now manage several buildings in the neighborhood. I am writing to support this Application to extend the time on this Contract Rezone.

With all the chaos created in the design and construction industries by the Covid-19 pandemic in Seattle, it is necessary for the City to give developers more time to design their projects and submit their MUP applications, as well as provide additional time on already approved building permits.

Currently, understanding the economics of real estate development is impossible due to the Pandemic- renters are unable to pay their monthly rent, and retailers are going bankrupt. Hence, creating a proforma for new projects is difficult and risky. Trying to figure out the financials for new projects, by developers and financial institutions alike, is very difficult. It's important for the City to provide the necessary and permitted time extensions for Contract Rezones until this Pandemic has passed.

Please approve this application to extend the time in this Contract Rezone. I would suggest you extend the time for a period of 3 years following King County getting to Phase 4 of the Governor's Phased Approach to Reopening.

Thank you,  
Scotty Enderle  
[swfenderle@gmail.com](mailto:swfenderle@gmail.com)

WRITTEN COMMENT  
In Support of the Application

From: Malcolm Harker  
Email: Headludd@mail.com

Date: 7/27/2020

To: SDCI  
Re: Application for Renewal of Contract Rezone  
Project Number: 3036784-LU  
Address: 1106 34<sup>th</sup> Avenue, Seattle, WA

I am writing in support of this Application. This site should match the zoning at the rest of this 2 block Commercial district (East side of 34<sup>th</sup> Ave. between E. Pike St. and E. Spring St.). All sites in this two block area are zoned neighborhood commercial (NC) except for this one. The old residential zoning (LR2) is inappropriate. This is clearly a mapping error- the site should have been remapped long ago to NC to reinforce the small Madrona Business District. Due to the Covid-19 Pandemic, the applicant should be afforded more time to produce his building design and submit his MUP application. I suggest an additional 3 year extension is appropriate, considering a vaccine for Covid will not be available for most US citizens until next August, 2021 at the earliest.

Yours truly,  
Malcolm Harker

## PRC

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**From:** STEVEN PELTIN <peltin@comcast.net>  
**Sent:** Tuesday, July 28, 2020 11:18 PM  
**To:** PRC  
**Subject:** Application #3036784-LU

**CAUTION: External Email**

Written Comments

In Support of Application

To: SDCI

Date: 7/27/2020

[PRC@seattle.gov](mailto:PRC@seattle.gov)

Attn: Colin Vasquez

RE: Project Number 3036784-LU

1106 34<sup>th</sup> Avenue, Seattle, Wa.

Dear Mr. Vasquez,

I don't know whether you remember me, but I am certain that we have spoken over the course of the last ten years that I have been a gift shop owner in the Madrona neighborhood of Seattle. I hope that this letter finds you in good health and bearing up as well as possible during this difficult time.

I write to you now to express my support for a three-year extension on the application for project #3036784-LU, which will be located at 1106 34th Avenue when it is completed. I have no doubt that the new building, which Madrona resident Marty Liebowitz is designing, will contribute significantly to the vibrance of the Madrona community, providing both additional retail space and more residential units along the pleasantly bustling 34th Street business corridor. Unfortunately, as has been the case for many people, the current coronavirus pandemic has caused unforeseen delays in Marty's work — he needs more time to design his new building, but he definitely wants to build!

As someone who has been a business owner in Madrona for a decade, I have seen how the neighborhood has benefitted as more business and residential spaces have become available, and I believe that NC zoning is the most appropriate for this site by allowing for both uses. Please extend the time for this Contract Rezone.

Thank you so much for taking the time to read my comments, and stay safe!

Sincerely,

Nena Peltin

[peltin@comcast.net](mailto:peltin@comcast.net)

Owner of Nena Gifts, Gallery & Vintage in Madrona



Date: July 27, 2020

To: SDCI  
[prc@seattle.gov](mailto:prc@seattle.gov)  
Attn: Colin Vasquez

Re: Project #3036784-LU  
1106 34<sup>th</sup> Ave  
Seattle, Washington

Dear Mr. Vasquez:

I am writing in support of an extension for the time period for the contract rezone: Project #3036784-LU for an additional three years. COVID-19 has caused many architects to reduce their workloads so that they may safely socially distance and work on a limited basis from home.

Additionally, the recent MHA Law was approved a year after this applicant received his final approval for the contract rezone from the Seattle City Council, causing the applicant to wait a year to start his design, as the contract rezone approval included a payment provision to the MHA Affordable Housing Fund. Both the timing of the MHA approval by Council, and the arrival of the pandemic have contributed to the applicant's need for additional time to design his building. I support this.

Also, according to the SEPA application form, the original application for this rezone, NC zoning, was found by SDCI to be the most appropriate zoning classification for this site. To this I also agree. Small business districts need an adequate quantity of mixed-use zoned property to allow them to thrive and be vibrant places to visit and shop. Rezoning this site to match the adjacent NC zoning on the rest of the block would help accomplish this goal.

I support extending the time period for this contract rezone for an additional period of three years.

Sincerely,  
Frida Weisman  
[fridaweisman@gmail.com](mailto:fridaweisman@gmail.com)

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE approving the extension of a contract rezone approved by Ordinance 125433 and accepting an amended Property Use and Development Agreement for a property located at 1106 34<sup>th</sup> Avenue. (Petition by Martin Leibowitz, C.F. 314461, SDCI Project 3036784-LU)

..body

WHEREAS, on October 9, 2017, the City Council passed Ordinance 125433 on October 9, 2017, approving a contract rezone for a property located at 1106 34<sup>th</sup> Avenue (Property) and accepting a Property Use and Development Agreement (PUDA); and

WHEREAS, the PUDA imposed conditions and covenants on future development of the Property; and

WHEREAS, Martin Leibowitz now seeks to extend the expiration date for the PUDA and contract rezone, by two additional years, in order to complete the development of the Property; and

WHEREAS, pursuant to Seattle Municipal Code (SMC) subsection 23.76.060.E, the City Council may extend the time limit on a Type IV land use decision by up to two years; and

WHEREAS, the Seattle Department of Construction and Inspections (SDCI) recommended that the Council approve the extension request on October 29, 2020;

WHEREAS, the SDCI recommendation is filed in Clerk File 314461;

WHEREAS; the City Council, pursuant to SMC subsection 23.76.060.E.2, finds the extension request to be reasonable and in the public interest; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. The zoning designation established by Ordinance 125433 is extended for two years from the effective date of this ordinance.

Ketil Freeman  
LEG -1106 34<sup>th</sup> Rezone Extension ORD  
D1a

1           Section 2. The Council accepts the Property Use and Development Agreement  
2 amendment attached to this ordinance as Exhibit A.

3           Section 3. The City Clerk is authorized and directed to file this ordinance and amended  
4 PUDA in the King County Recorder’s Office; to file, upon return of the ordinance from the King  
5 County Recorder’s Office, the original of this ordinance at the City Clerk’s Office; and to deliver  
6 copies of the same to the Director of the Seattle Department of Construction and Inspections and  
7 to the King County Assessor’s Office.

DRAFT

Ketil Freeman  
LEG -1106 34<sup>th</sup> Rezone Extension ORD  
D1a

1 Section 4. This ordinance, effectuating a quasi-judicial decision of the City Council and  
2 not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and  
3 after its passage and approval by the City Council.

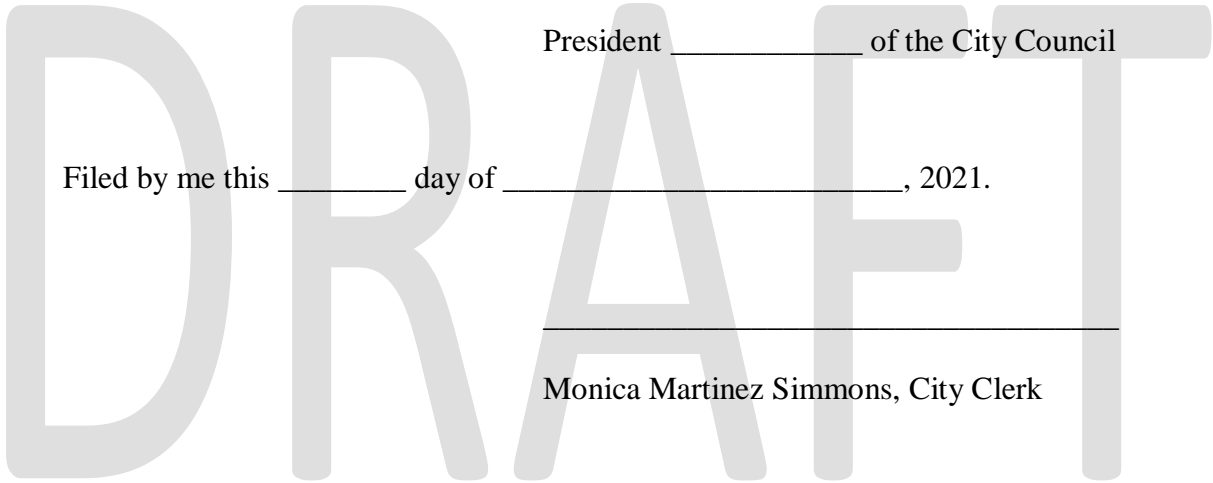
4 Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2021.

7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

10 \_\_\_\_\_  
11 Monica Martinez Simmons, City Clerk

12 (Seal)



**Amendment to Property Use and Development Agreement**

<i>When Recorded, Return to:</i>	
<b>THE CITY CLERK</b> 600 Fourth Avenue, Floor 3 PO Box 94728 Seattle, Washington 98124-4728	

**AMENDED PROPERTY USE AND DEVELOPMENT AGREEMENT**

<b>Grantor(s):</b>	(1) Martin Liebowitz	(2) 34th and Spring LLC
<input type="checkbox"/> Additional grantors on page _____		
<b>Grantee:</b>	(1) The City of Seattle	
<input type="checkbox"/> Additional on page _____		
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON	
<input type="checkbox"/> Additional legal description on page _____:		
<b>Assessor's Tax Parcel ID #:</b>	5157700040 (part) and 5157700055	
<b>Reference Nos. of Documents Released or Assigned:</b>		

THIS AMENDMENT (the "Amendment") to the PROPERTY USE AND DEVELOPMENT AGREEMENT recorded under King County Recording Number 20171116000748 (the "PUDA") is executed this \_\_\_\_ day of \_\_\_\_, 2021, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by the 34<sup>th</sup> and Spring LLC, a Washington limited liability company (the "Owners").

All terms not defined herein shall have the same meaning as in the PUDA.

1. A new Section 9 is added to the PUDA to read as follows:

Section 9. Notwithstanding the expiration provision in Section 3, this Agreement is extended for an additional period of two years from the effective date of the ordinance accepting this Amendment and extending the rezone.

2. No Other Changes. Except as set forth herein, the PUDA shall remain in full force and effect.

DRAFT

*[Signature Pages Follow]*

DRAFT

SIGNED this \_\_\_\_ day of January, 2021.

OWNERS:

34TH AND SPRING LLC,  
a Washington limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Martin Liebowitz

DRAFT



STATE OF WASHINGTON

} ss.

COUNTY OF KING

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of 34th and Spring LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Printed Name  
Notary Public in and for the State of Washington,  
residing at  
My Commission Expires

STATE OF WASHINGTON

} ss.

COUNTY OF KING

I certify that I know or have satisfactory evidence that Martin Liebowitz is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Printed Name  
Notary Public in and for the State of Washington,  
residing at  
My Commission Expires

DRAFT