

December 5, 2023

MEMORANDUM

To: Land Use Committee
From: Lish Whitson, Legislative Analyst
Subject: Clerk File 314400 - 1620 16th Rezone

On December 8, the Land Use Committee (Committee) will receive a briefing and may vote on [Clerk File \(CF\) 314400](#), which is an application by Daniel Goddard, Weinstein A+U (Applicant) for a contract rezone of a parcel located at 1620 16th Ave between E Madison Street and E Olive Street in the Capitol Hill neighborhood. If the Committee recommends approval of the rezone, a Council Bill (Exhibit 1) to effectuate the rezone will be introduced for consideration at the City Council alongside Clerk File 314400.

This memorandum: (1) provides an overview of the rezone application contained in CF 314400; (2) describes quasi-judicial actions and the record compiled by the Seattle Hearing Examiner (3) describes the contents of Council decision documents, which would grant the rezone application, including a summary of the draft Council Bill, which would amend the Official Land Use Map, also known as the zoning map, to effectuate the rezone, and accept a Property Use and Development Agreement (PUDA) limiting future development; and (4) describes next steps.

Overview of Rezone Application

The Applicant has applied for a contract rezone for a parcel on the east side of 16th Avenue between E Madison Street and E Olive Street from Lowrise 3 with an M Mandatory Housing Affordability (MHA) suffix (LR3 (M)) to Neighborhood Commercial 3 with a 65-foot height limit and an M1 MHA suffix (NC3-65 (M1)). The application was filed in 2018, prior to the adoption of the Mandatory Housing Affordability legislation. At the time of the application the rezone parcel was zoned Lowrise 3, without the MHA suffix.

The application includes a Master Use Permit to redevelop the rezone parcel, along with the abutting parcel to the south, with a mixed-use building with 88 units, a 1,456 square foot restaurant space, and 105 parking spaces. Both parcels are owned by Jewish Family Service of Seattle (JFS), a nonprofit social service agency. Approximately half of the parking spaces in the new building would be used by JFS.

The parcel to be rezoned contains a vacant five-unit apartment building and the abutting parcel is used as a surface parking lot for Jewish Family Service of Seattle's (JFS) office building on the west side of 16th Avenue. An alley runs along the east side of the properties. Other buildings in the immediate area include a mixed-use building with a Central Co-Op grocery store at the corner of E Madison St and 16th Avenue, and multifamily buildings to the north and east of the rezone site. Sound Health operates a mental health clinic at 16th Avenue and E Olive St.

Zoning along E Madison Street, south of the rezone area, and along E Pine Street to the southwest is Neighborhood Commercial 3 with a 75-foot height limit. Lowrise 3 zoning covers the area north and south of these commercial corridors, including the rezone parcel.

On September 18, 2023, the Seattle Department of Construction and Inspections (SDCI) issued an affirmative recommendation to conditionally approve the application. On October 11, 2023, the Seattle Hearing Examiner held an open-record public hearing on the proposed rezone. On November 13, 2023, the Hearing Examiner filed a recommendation of conditional approval. On November 17, 2023, the Hearing Examiner filed an amended recommendation of conditional appeal dated November 11, 2023. Without an appeal, the Council has 90 days to act on the rezone under City and State regulations and should take final action on the rezone by February 15, 2024.

The Hearing Examiner's recommended condition is included at the end of their amended Findings and Recommendation (Exhibit 2).

Type of Action

A Council decision on the rezone application is quasi-judicial.¹ Quasi-judicial decisions are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication and are governed by the Council's Quasi-judicial Rules.²

Council decisions must be made on the record established by the Hearing Examiner. The Hearing Examiner establishes the record at an open-record hearing. The record contains the substance of the testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing.

Audio recordings of the approximately eighty-minute hearing can be accessed through the Hearing Examiner's website.³ Excerpts from the record, including the rezone application, early design guidance outreach packet, the SDCI recommendation, and public comments are contained in the Legistar record for CF 314400.

Committee Decision Documents

To approve a contract rezone the Committee must make recommendations to the City Council on two pieces of legislation: (1) a CF that includes a Council Findings, Conclusions and Decision document that grants the rezone application and (2) a bill amending the zoning map and approving a PUDA.

¹ [Seattle Municipal Code \(SMC\) Section 23.76.036](#).

² Adopted by [Resolution 31602](#) (2015).

³ [Case Details for CF-314400 \(seattle.gov\)](#).

CF 314400

Amendment to the Title

CF 314400 was filed with the City Clerk prior to the adoption of the Mandatory Housing Affordability rezones. The title reflects outdated zoning categories and does not reflect the applicant of record. Central Staff recommends amending the title to reflect the current zoning and applicant of record, as follows:

~~Application of 1620 Holdings, LLC to rezone an approximate 7,200 square foot site located at 1620 16th Avenue from Lowrise 3 (LR3) and Neighborhood Commercial 3 with a 65-foot height limit (NC3-65) to Neighborhood Commercial 3 with a 65-foot height limit and M1 Mandatory Housing Affordability suffix (NC3-65 (M1)) (Project No. 3030517-LU; Type IV)~~

Application of Daniel Goddard, Weinstein A+U to rezone property located at 1620 16th Avenue from Lowrise 3 (M) to Neighborhood Commercial 3-65 (M1) (Project No. 3030517-LU; Type IV).

Findings, Conclusions and Decision

Council staff has drafted a proposed Council Findings, Conclusions and Decision (Exhibit 3), which:

- Adopts the Hearing Examiner's findings and conclusions, and
- Adopts the rezone conditions recommended by the Hearing Examiner.

If the Committee supports the rezone, it should add the Findings, Conclusions and Decision to CF 314400.

Rezone Bill

A Rezone Bill to amend the Official Land Use Map to rezone the site and approve and accept an executed PUDA should be introduced and adopted alongside the Clerk File if the Committee recommends approval. A draft bill is included as Exhibit 1 to this memorandum. This proposed bill would effectuate the rezone.

The draft bill includes a Section 3, which states:

Section 3. The zoning designation of this ordinance shall remain in effect until the

Property is rezoned by subsequent Council action.

This provision has been included in a number of other rezone bills, and would implement the provisions of section [SMC 23.76.060.C.1](#), which allows the Council to amend the standard term of a contract rezone. If this section is not included in the bill, the rezone would expire at the end of three years if the Master Use Permit expires and a Certificate of Occupancy has not been issued. Consistent with the Hearing Examiner's recommendation, the proposed PUDA would

require development on the rezoned lot to be consistent with the Master Use Permit for the development described above.

Next Steps

The rezone application will be considered by the Committee on December 8 for a potential recommendation to City Council in January 2024. If the Committee recommends approval of the rezone, the draft Council Bill included as Exhibit 1 to this memo will be introduced at the first opportunity in January 2024. Depending on Committee action, a City Council vote on the bill would occur at the following City Council meeting.

Exhibits

1. Draft Council Bill
2. Hearing Examiner's Findings and Recommendation
3. Draft Findings, Conclusions and Decision

cc: Esther Handy, Executive Director
Aly Pennucci, Deputy Director
Yolanda Ho, Supervising Analyst

Lish Whitson
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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at pages 111 and 112 of the Official Land Use Map to rezone the property at 1620 16th Avenue from Lowrise 3 with an M Mandatory Housing Affordability Suffix (LR3 (M)) to Neighborhood Commercial 3 with a 65-foot height limit and M1 Mandatory Housing Affordability Suffix (NC3-65 (M1)); and accepting a Property Use and Development Agreement as a condition of rezone approval. (Application of Daniel Goddard, Weinstein A+U, C.F. 314400, SDCI Project 3030517-LU)

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones the property (“Property”) commonly known as 1620 16th Avenue, legally described as follows:

LOT 2 OF BLOCK 11 OF RENTON’S ADDITION TO THE CITY OF SEATTLE,
ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS,
PAGE 118, RECORDS OF KING COUNTY, WASHINGTON.

Section 2. Pages 111 and 112 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, is amended to rezone the property described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Lowrise 3 with an M Mandatory Housing Affordability Suffix (LR3 (M)) to Neighborhood Commercial 3 with a 65-foot height limit and M1 Mandatory Housing Affordability Suffix (NC3-65 (M1)). Approval of this rezone is conditioned on complying with the Property Use and Development Agreement (PUDA) approved in Section 4 of this ordinance.

Section 3. The zoning designation of this ordinance shall remain in effect until the Property is rezoned by subsequent Council action.

Section 4. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

Lish Whitson
LEG 1620 16th Rezone ORD
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Section 5. The City Clerk is authorized and directed to file the PUDA with the King County Recorder's Office; to file the original PUDA along with this ordinance at the City Clerk's Office upon return of the recorded PUDA from the King County Recorder's Office; and to deliver copies of the PUDA and this ordinance to the Director of the Seattle Department of Construction and Inspections and to the King County Assessor's Office.

Section 6. This ordinance, effectuating a quasi-judicial decision of the City Council and not subject to Mayoral approval or disapproval, shall take effect and be in force 30 days from and after its passage and approval by the City Council.

Passed by the City Council the _____ day of _____, 2023,
and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

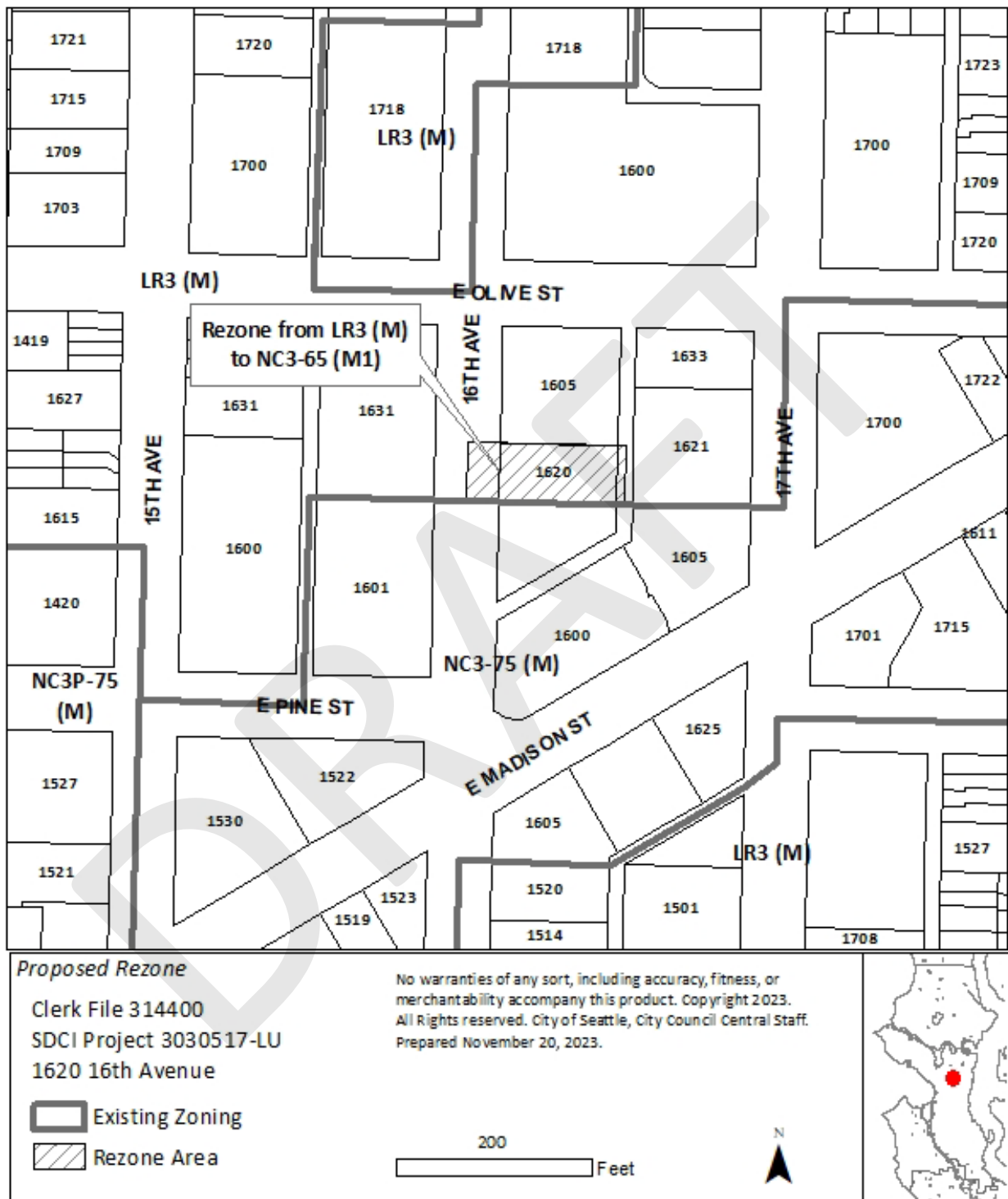
(Seal)

Exhibits:

Exhibit A – Rezone Map

Exhibit B – Property Use and Development Agreement for 1620 16th Avenue

Ex A – Rezone Map
V1



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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):	JEWISH FAMILY SERVICE OF SEATTLE
Grantee:	THE CITY OF SEATTLE
Legal Description <i>(abbreviated if necessary):</i>	LOT 2 OF BLOCK 11 OF RENTON'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 118, RECORDS OF KING COUNTY, WASHINGTON.
Assessor's Tax Parcel ID #:	7234600470
Reference Nos. of Documents Released or Assigned:	n/a

PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____ day of _____, _____, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by JEWISH FAMILY SERVICE OF SEATTLE, a Washington Nonprofit Corporation ("Owner").

RECITALS

A. JEWISH FAMILY SERVICE OF SEATTLE, is the owner of that certain real property consisting of a parcel ("Property") in the City of Seattle currently zoned Lowrise 3 with an M Mandatory Housing Affordability Suffix (LR3 (M)), shown in Attachment 1 and legally described as:

LOT 2 OF BLOCK 11 OF RENTON'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 118, RECORDS OF KING COUNTY, WASHINGTON.

B. In 2018, the Owner submitted to the City an application under Project No. 3030517-LU for a rezone of the Property from Lowrise 3 (LR3) to Neighborhood Commercial 3-65 with an M1 Mandatory Housing Affordability designation (NC3-65' (M1)) (the "Rezone"). Subsequent to the rezone application, the City added an M Mandatory Housing Affordability designation to the LR3 zone, resulting in the current LR3 (M) designation.

C. Seattle Municipal Code Section 23.34.004 allows the City to approve a rezone subject to “self-imposed restrictions” upon the development of the Property.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

AGREEMENT

Section 1. Agreement. Pursuant to Seattle Municipal Code Section (“SMC”) 23.34.004, the Owner covenants, bargains, and agrees, on behalf of itself and its successors and assigns that it will comply with the following condition in consideration of the Rezone:

Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit 3030517-LU.

Section 2. Agreement Runs With the Land. This Agreement shall be recorded in the records of King County by the City Clerk. The covenants contained in this Agreement shall attach to and run with the land and be binding upon the Owners, their heirs, successors and assigns, and shall apply to after-acquired title of the Owner.

Section 3. Amendment. This Agreement may be amended or modified by agreement between the Owner and the City; provided any amendments are approved by the City Council by ordinance.

Section 4. Exercise of Police Power. Nothing in this Agreement shall prevent the City Council from making further amendments to the Seattle Municipal Code or Land Use Code as it may deem necessary in the public interest.

Section 5. No Precedent. The conditions contained in this Agreement are based on the unique circumstances applicable to the Property and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

Section 6. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if the Owner avails itself of the benefits of this rezone but then fails to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may:

a. Revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the previous zoning designation or some other zoning designation imposed by the City Council; and

b. Pursue specific performance of this Agreement.

[signature and acknowledgment on following page]

SIGNED this _____ day of _____, _____.

JEWISH FAMILY SERVICE OF SEATTLE, a Washington Nonprofit Corporation

By: _____

Name: _____

Its: _____

STATE OF WASHINGTON

COUNTY OF _____ } ss.

This record was acknowledged before me on _____, _____ by
_____ as _____ of Jewish Family Service of Seattle, a
Washington Nonprofit Corporation.

[Stamp Below]

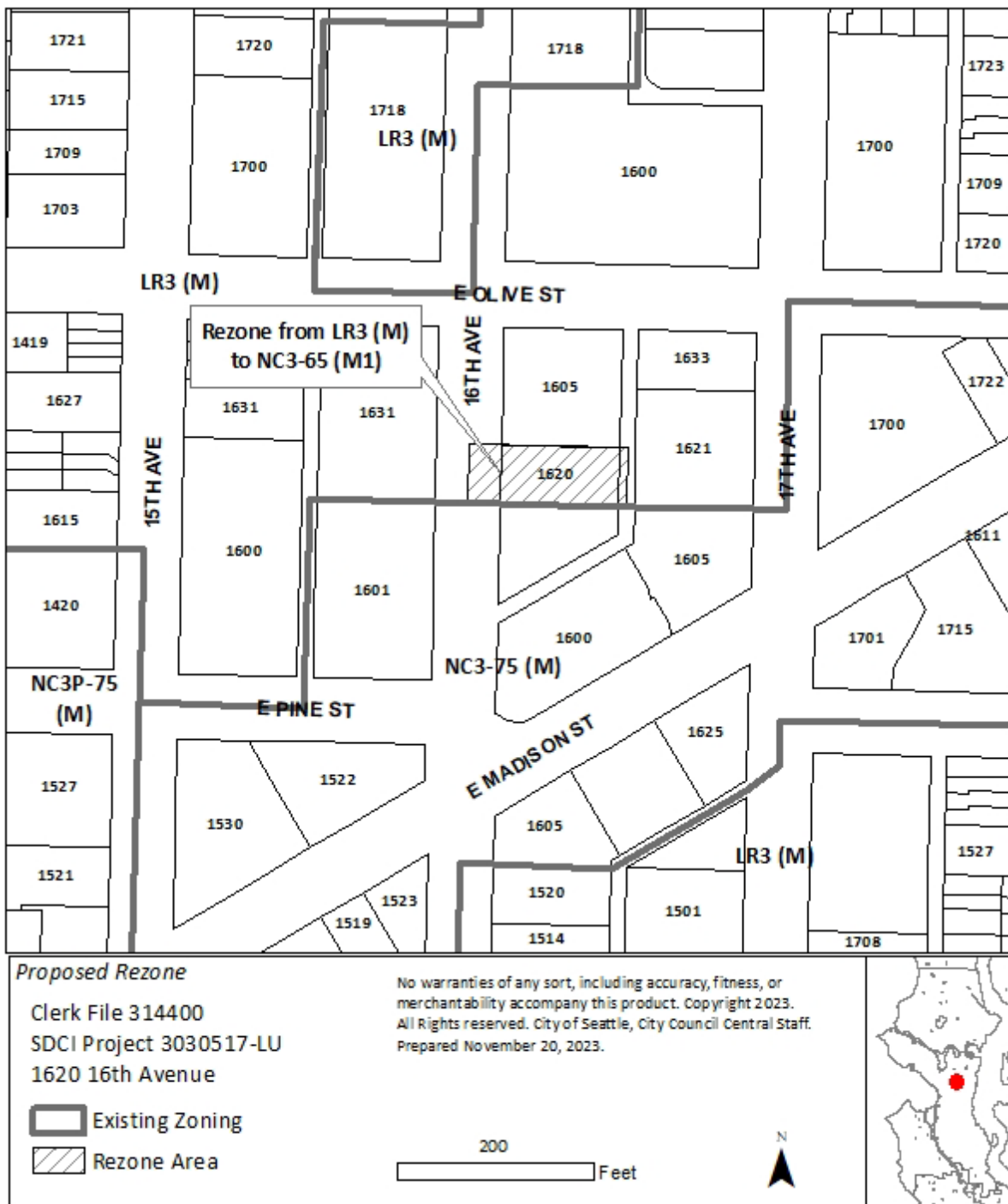
Signature

NOTARY PUBLIC in and for the State of Washington

My Commission

Expires _____

ATTACHMENT 1



**AMENDED FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

CF 314400

DANIEL GODDARD, WEINSTEIN A+U

Department Reference:
3030517-LU

for a contract rezone for property located
at 1620 16th Avenue

Introduction

Daniel Goddard, Weinstein A+U, applied for a rezone, on behalf of Jewish Family Service of Seattle, of property located at 1620 16th Avenue from Lowrise 3(M) (“LR3(M)”) to Neighborhood Commercial 3-65'(M1) (“NC3-65(M1)”) with a property use and development agreement (“PUDA”). The Director of the Department of Construction and Inspections (“Director”) submitted a report recommending that the rezone be approved.

A hearing on the rezone application was held before the Hearing Examiner on October 11, 2023. The Applicant was represented by Abigail DeWeese, attorney-at-law, and the Director was represented by Carly Guillory, Land Use Planner. Following the Hearing Examiner's site visit on October 25, 2023, the record closed.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code (“SMC” or “Code”) unless otherwise indicated. Having considered the evidence in the record and reviewed the site, the Hearing Examiner enters the following findings of fact, conclusions and recommendation on the rezone application.

Findings of Fact

Site and Vicinity

1. The subject site is located on the east side of 16th Avenue. The site consists of two parcels, each running east to west, addressed as 1610 16th Avenue (parcel identification number (“PIN”) 723460-0465) to the south, and 1620 16th Avenue (PIN 723460-0470) to the north. The total square footage of the lots is 15,000 square feet. The south parcel is currently zoned NC3-75(M), and no zone change is proposed to this parcel. The north parcel contains an existing two-story apartment building with a detached garage structure, and the south parcel contains an existing surface vehicular parking area. The north parcel is zoned Lowrise 3 with a Mandatory Housing Affordability Suffix of “M” (“LR3(M)”). The site is bound by 16th Avenue to the west, and an alley to the south and east. To the north is a three-story residential building (Marquis Apartments – 1605 East Olive Street). *See Exhibit 1.*

2. Properties to the north are zoned LR3(M). Lots to the east and west are zoned LR3(M) and NC3-75(M). Properties to the south are zoned NC3-75(M).
3. Surrounding development includes a mix of commercial and residential structures of a variety of architectural styles and building heights. To the north is a three-story residential building (Marquis Apartments – 1605 East Olive Street). Across the alley to the east, is a three-story apartment building with accessory parking (Cascadia Apartments – 1621 17th Avenue) and an assisted living facility (Gaffney House – 1605 17th Avenue). To the south and southeast, across the alley, is a six-story commercial and residential building (Madison Crossing/Central Co-op – 1600 E Madison Street), a four-story apartment building (Garden Court Condominiums – 1631 16th Avenue), and a three-story commercial office building (Jewish Family Service Capitol Hill Campus – 1601 16th Avenue) are across 16th Avenue, west of the subject property. Institutional and commercial uses are primarily located in larger scaled buildings organized along E Madison Street with generally smaller-scaled residential buildings located a block north and south of E Madison Street. There are several exceptions in which larger residential buildings are located further from E Madison Street to the west and east of the project site.
4. East Madison Street, located half a block to the south, is a primary vehicular and pedestrian connection to Downtown from the surrounding neighborhood.
5. The subject site is located within the First Hill/Capitol Hill Urban Center.
6. The current height limit for the north lot is 50 feet. The current height limit on the lot to the south is 65 feet.
7. No mapped environmentally critical areas are on or near the site.

Zoning History and Potential Zoning Changes

8. The project area was zoned Commercial or Industrial in 1923. In 1947 the property was rezoned to Second Residential District (“R2D”). The property was rezoned to Multiple Residential (“RM”) in 1957. In 1991 the north parcel was rezoned to LR3, and the south parcel was rezoned to NC3-65.
9. In August 2016 the City Council passed Ordinance 125108 creating a new Land Use Code Chapter 23.SSC, Mandatory Housing Affordability for Residential Development (“MHA-R”). The purpose of Chapter 23.SSC is to implement an affordable housing incentive program authorized by RCW 36.70A.540. Chapter 23.S8C specifies a framework for providing affordable housing in new development, or an in-lieu payment to support affordable housing, in connection with increases in residential development capacity. The MHA citywide rezone changed the subject site’s zoning designations from the north parcel’s LR3 and the south parcel’s NC3-65 to LR3(M) and NC3-75(M) respectively.

Neighborhood Plan

10. The subject site is within the area included in the Capitol Hill Neighborhood Plan within the City of Seattle Comprehensive Plan, Adopted Neighborhood Plans section. This Neighborhood Plan was adopted in 1998.

Proposal

11. The proposal seeks to rezone only the north parcel portion of the property from Lowrise 3(M) LR3(M) to NC3-65(M1). The proposed development project includes a 7-story, 88-unit apartment building with a restaurant. Parking for 105 vehicles is proposed. The existing onsite building is proposed to be demolished.
12. The proposed rezone would maintain the existing pattern of commercially zoned properties generally fronting the E Madison Street corridor and commercial district, with residential uses to the north of this commercial district and corridor. The proposed rezone will move an existing boundary between commercial and residential zones approximately 60 feet to the north. A restaurant use is proposed at the southwest corner of the building, facing 16th Avenue. Residential uses occupy the remainder of the project's frontage and create a buffer or boundary between commercial and residential areas. Across the street to the west is the Jewish Family Service of Seattle, a nonresidential use fronting 16th Avenue and the proposed commercial use on site.

Public Comment

13. The public comment period ended on August 27, 2018. In addition to the comments received through the design review process, other comments were received and considered by the Department, to the extent that they raised issues within the scope of its review. These areas of public comment related to offering support for the project and sharing concerns with transportation, carbon emissions, height, density, and shadow impacts.
14. Comments were received at the public hearing before the Hearing Examiner:
- a. Marie Baeta expressed concern about removal of the existing building (which she believed may be a historical building, though this was not demonstrated in the record), sunlight blocking by the project, and tree removal.
 - b. Jack Hilovsky stated some support for aspects of the proposal but expressed concern about incompatibility of the project with the neighborhood due to height and density of the proposal.
 - c. Francesca Oaksford expressed support for the proposal.
15. Erin Wade submitted a written comment in advance of the hearing. She expressed concern about the removal of the existing building on the property and would like to see trees on or associated with the property preserved.

Director's Review

16. The Director reviewed the Design Review Board's recommendations and agreed that the proposed project results in a design that best meets the intent of the Design Review Guidelines, and accepted the Board's recommendations. The Director approved the design. Exhibit 16 at 14-17.
17. The Director's report (Exhibit 1) analyzes the proposed contract rezone and recommends that it be approved with conditions.

Applicable Law

18. SMC 23.34.008 provides the general rezone criteria. The criteria address the zoned capacity and density for urban villages; the match between the zone criteria and area characteristics; the zoning history and precedential effect of the rezone; neighborhood plans that apply; zoning principles that address relative intensities of zones, buffers and boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; the presence of overlay districts or critical areas, and whether the area is within an incentive zoning suffix.
19. When, as in this case, a rezone includes consideration of height limits in commercial or industrial zones, SMC 23.34.009 prescribes additional criteria to be considered, including the function of the zone, topography of the area and surroundings, height and scale of the area, compatibility with the surrounding area, and neighborhood plans.
20. SMC 23.34.007.C provides that compliance with the requirements of Chapter 23.34 SMC constitutes consistency with the Comprehensive Plan for purposes of reviewing proposed rezones, but the Comprehensive Plan may be considered where appropriate.

Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to SMC 23.76.052, and makes a recommendation on the proposed rezone to the City Council.
2. SMC 23.34.007 provides that the applicable sections of Chapter 23.34 SMC on rezones are to be weighed and balanced together to determine the most appropriate zone and height designation. In addition, the zone function statements are to be used "to assess the likelihood that the area proposed to be rezoned would function as intended." SMC 23.34.007.A. "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement" SMC 23.34.007.B.
3. The most appropriate zone designation is the one "for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation." SMC 23.34.008.B.

Effect On Zoned Capacity

4. The subject site is located within the First Hill/Capitol Hill Urban Center. The growth target for this urban center is 6,000 housing units between the years 2015 and 2035 (Growth Strategy

Appendix, Comprehensive Plan/Seattle 2035) and the density sought is 15 housing units per acre (Land Use Appendix, Comprehensive Plan/Seattle 2035).

5. According to the SDCI Urban Center/Village Housing Unit Growth Report (dated July 8, 2022), the First Hill/Capitol Hill Urban Center has had a growth rate of 25.8%. The proposed rezone will not reduce the zoned capacity for the First Hill/Capitol Hill Urban Center. The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and 12 residential units. The 12 additional units are calculated based on the additional height and density allowed in the NC zoning versus the LR3 zoning, which results in an additional 6 units on levels six and seven. The proposed rezone is consistent with SMC 23.34.008.A.1. as the increase in zoned capacity does not reduce capacity below 125% of the Comprehensive Plan growth target.

Match Between Zone Criteria and Area Characteristics

6. The most appropriate zone designation is the one "for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation." SMC 23.34.008.B. The proposed rezone would be consistent with the adjacent zoning in the area. Currently, the site and its relation to adjacent zoning matches the NC3 zone function and locational criteria, found in SMC 23.34.078,¹ so the designation is appropriate.

Neighborhood Plan

21. The applicable plan policies and goals from the Capitol Hill Neighborhood Plan portion of the Comprehensive Plan relate to housing, design, and zoning regulations generally, but not to rezones specifically. Those topical goals and policies include:

¹ 23.34.078 - Neighborhood Commercial 3 (NC3) zones, function and locational criteria.

A. Function. To support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that provides comparison shopping for a wide range of retail goods and services; that incorporates offices, business support services, and residences that are compatible with the retail character of the area; and where the following characteristics can be achieved:

1. A variety of sizes and types of retail and other commercial businesses at street level;
2. Continuous storefronts or residences built to the front lot line;
3. Intense pedestrian activity;
4. Shoppers can drive to the area, but walk around from store to store;
5. Transit is an important means of access.

B. Locational Criteria. A Neighborhood Commercial 3 zone designation is most appropriate on land that is generally characterized by the following conditions:

1. The primary business district in an urban center or hub urban village;
2. Served by principal arterial;
3. Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;
4. Excellent transit service.

CH-P4 Strengthen and enhance the character of the major residential neighborhoods and encourage a greater range of housing choices affordable to a broad spectrum of the entire community.

The project provides 88 residential units of studio and one-bedroom configurations and includes conformance with the requirements of the MHA program.

CH-G2 An enhanced neighborhood with diverse land uses, a mixture of housing types including single-family and dense multifamily, and vibrant commercial districts.

The character of the existing neighborhood along 16th Avenue between East Olive Street and E Madison Street includes three multifamily buildings and the Jewish Family Center's existing office building. The project would reflect this existing density.

CH-P5 Encourage the preservation of the neighborhood's architectural quality, historic character, and pedestrian scale.

The proposed design responds to the neighborhood's architectural quality, historic character, and pedestrian scale, with elements such as setbacks, weather protection, commercial uses, high-quality materials such as brick and glass, and expansive windows and metal framed decks.

CH-P8 Enhance and protect the character of the diverse residential districts.

The Project will enhance the character of the neighborhood by providing a thoughtfully designed building, additional residential use and neighborhood-scale commercial space.

CH-G3 A community with a full range of housing types from single-family homes to multifamily contributing to a diverse, densely populated neighborhood.

The project increases density and residential opportunities in the neighborhood.

CH-P15 Encourage the development of high-quality new housing that blends with historic housing.

The proposed design includes high-quality materials and design elements that respond to the nearby historic housing such as the Marquis Co-Op and Garden Court Apartments.

CH-G6 A pedestrian-oriented neighborhood with a balanced transportation environment that emphasizes public transit, yet also facilitates vehicular mobility and addresses the parking needs of businesses, residents, and students.

The Project will provide more potential riders of the transit infrastructure in the neighborhood, including Light Rail and frequent bus service. At the same time, the Project will address the parking needs of the immediate community by providing on-site parking for building residents and Jewish Family Service office uses.

Zoning Principles/Precedential Effect

7. The zoning principles listed in SMC 23.34.008.E are generally aimed at minimizing the impact of more intensive zones on less intensive zones, if possible. They express a preference for a gradual transition between zoning designations, including height limits, if possible, and potential physical buffers to provide an effective separation between different uses and intensities of development.
8. There is some effective separation between the proposal and adjacent and nearby properties provided by topographic changes, adjacent streets to the west, and an alley to the east.
9. The Director considered the zone transition between the proposal and less intensive development to the north. Design elements have been employed in the proposal to mitigate possible impacts and create a gradual transition between zoning categories and height limits. These elements include shifting the massing (floors two through seven) 21 feet south of the adjacent site to the north, installation of a landscape buffer along the north property line, and fenestration patterns to maintain privacy of adjacent residents.
10. In addition, the Design Review process (SMC 23.41) also considers height, bulk and scale transitions to lower adjacent zones and response to existing context. The proposed rezone includes a specific proposed development that has gone through the Design Review process consistent with SMC 23.41. The design that has been approved by SDCI includes design strategies to address the project's height, bulk, and scale.
11. The proposed zoning aligns with existing lot lines and street centerlines. An established boundary between commercial and residentially zoned properties remains and is moved north 60 feet. A gradual transition between zoning categories is provided in the project design through use of setbacks and landscaping.
12. The proposed 65-foot height limit is consistent with new development in the area and anticipated zoning changes.
13. The proposed zone with a 65-foot height limit is consistent with the Capitol Hill Neighborhood Plan and existing built character of the area.

Impact Evaluation

14. The proposed rezone would positively impact the housing supply, as it would add 98 new residential units, with 12 new units created beyond the existing zoning.
15. Although the proposal would increase the demand for public services, the increase would be minimal. There is no evidence in the record that the demand would exceed service capacities. In particular, street access, street capacity, transit service and parking capacity were shown to be sufficient to serve the additional units that would be allowed by the rezone. Height, bulk and scale impacts, including shadow impacts, were reviewed and addressed through the design review process.

16. The proposal will have a positive impact on the supply of housing in the area. The proposed rezone will add housing capacity to the neighborhood.
17. The site does not lie within a shoreline district, no public access is being impacted or removed with this proposal and no existing recreational areas are being impacted or removed.

Changed Circumstances

18. Changed circumstances are to be considered but are not required to demonstrate the appropriateness of a proposed rezone. The City's proposed rezone in this area, for purposes of implementing MHA-R affordable housing legislation, indicates an up-zone pattern consistent with the proposal.

Overlay Districts

19. The site is within a Pedestrian overlay district. The overlay will not change with this rezone proposal.

Critical Areas

20. As noted above, there are no mapped environmentally critical areas on or near the site.

Height Limits

21. The proposed rezone would allow an additional 15 feet in zoned height. SMC 23.34.009 addresses the designation of height limits for proposed rezones. The issues to be considered include the function of the zone; the topography of the area and its surroundings, including view blockage; height and scale of the area; compatibility with the surrounding area; and neighborhood plans.
22. Function of the zone. Height limits are to be consistent with the type and scale of development intended for the zone classification, and the demand for permitted goods and services and potential for displacement of preferred uses are to be considered. The proposed mixed-use project is consistent with the type and scale of development intended for the NC3 zone in urban centers, as discussed above. There will be no displacement of preferred uses.
23. Topography of the area. Heights are to "reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage" is to be considered. The existing topography of the site is characterized at the four-foot-tall rockery and retaining wall along the west property line generally sloping upwards to the east at an approximately seven percent slope gaining an additional eight-feet in elevation for a difference in elevation of 12-feet. The existing zoning transition pattern in this area generally reinforces the natural topography of the area. Zoning to allow taller buildings is generally located along the East Madison Street corridor, with lower height zoning for properties to the north of this corridor. The proposed rezone would maintain this pattern and reinforce a transition in height, bulk, and scale from NC3-75(M) to the south to LR3(M) to the north.

24. Height and scale of the area. The height limits established by current zoning in the area are to be considered. In general, permitted height limits are to “be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area’s overall development potential.” SMC 23.34.009.C.

The proposed development would be consistent with the predominant height and scale of nearby newer development, which is representative of the area’s overall development potential.

25. Compatibility with surrounding area. Height limits are to be compatible with actual and zoned heights in surrounding areas. In addition, a gradual transition in height and scale and level of activity between zones is to be provided unless major physical buffers are present. Physical buffers exist, mostly in the form of streets and an alley. However, the proposal is compatible in height with nearby and planned development and zones. The height limit of 65-feet would be compatible with the actual and zoned heights in the surrounding area, and consistent with the transition of zoned heights and scale of development in the area.
26. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the subject site is NC3-65(M1) with a PUDA.

Recommendation

The Hearing Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA that incorporates the final approved Master Use Permit drawings for the proposal and the following conditions:

The Director recommended approval with the following Design Review Conditions:

Prior to Issuance of a Construction Permit

1. Include in the construction permit plan set the following:
 - a. Those representative examples and details in section and plan shown on pages four and five of Design Recommendation Conditions of Approval Supplemental Information (WeinsteinA+U, August 13, 2020), including:
 - i. TYP Window Head & Sill with Break Metal (2/A471);
 - ii. TYP Corner Window Post with Metal Panel (5/A441); and
 - iii. TYP Intermediate Window Post with Break Metal (8/A441).
 - b. Details describing the equipment required for the operation of the overhead garage door (that equipment listed on page eight of the Design Recommendation Conditions of Approval Supplemental Information document (WeinsteinA+U, August 13, 2020)).
 - d. Details describing those measures/cueing devices/elements proposed to enhance pedestrian safety along 16th Avenue, which are described on pages 20-21 of Design Recommendation Conditions of Approval Supplemental Information (WeinsteinA+U, August 13, 2020) and summarized as: parking garage entry ramp

configuration, cast-in place vehicle detection loop, building setback and plantings, traffic mirror, and cast-in place drive-over lighting.

2. The design of exterior space abutting the commercial tenant space currently planned for outdoor dining associated with the restaurant use (adjacent 16th Avenue) shall be maintained in the final design and shall be dedicated for ancillary activities (seating, restaurant dining) to occur in the future if another commercial use is proposed for this space. Include in the construction permit plan set details demonstrating consistency with this condition.

For the Life of the Project

3. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation meeting and in the materials submitted after the Recommendation meeting, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner.

The Director recommended approval with the following rezone condition:

Prior to Issuance of a Master Use Permit

1. Submit a copy of the approved Property Use and Development Agreement (PUDA) (required pursuant to SMC 23.34.004) containing the following condition of approval: a. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit 3030517-LU.

Entered November 11, 2023.

/s/Ryan Vancil
Ryan P. Vancil
Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner's recommendation to consult appropriate Code sections to determine applicable rights and responsibilities.

Pursuant to SMC 23.76.054, any person substantially affected by a recommendation of the Hearing Examiner may submit an appeal of the recommendation in writing to the City Council. The appeal must be submitted within fourteen (14) calendar days following the date of the issuance of the recommendation of the Hearing Examiner, and be addressed to:

Seattle City Council
Planning, Land Use and Sustainability Committee
c/o Seattle City Clerk
600 Fourth Avenue, Floor 3 (physical address)
P.O. 94728 (mailing address)
Seattle, WA 98124-4728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Consult the City Council committee named above for further information on the Council review process.

FINDINGS, CONCLUSIONS, AND DECISION
OF THE CITY COUNCIL OF THE CITY OF SEATTLE

In the matter of the Petition:	)	Clerk File 314400
Application of Daniel Goddard,	)	FINDINGS, CONCLUSIONS,
Weinstein A+U to rezone property	)	AND DECISION
located at 1620 16 th Avenue from	)	
Lowrise 3 (M) to Neighborhood	)	
Commercial 3-65 (M1) (Project No.	)	
3030517-LU; Type IV).	)	
	)	
	)	
	)	
	)	
	)	
	)	

Introduction

This matter involves a petition by Daniel Goddard, Weinstein A+U (“Applicant”) for a contract rezone of property at 1620 16th Avenue from Lowrise 3 with an M Mandatory Housing Affordability suffix (LR3 (M)) to Neighborhood Commercial 3-65 with an M1 Mandatory Housing Affordability suffix (NC3-65 (M1)). The proposed rezone is of a parcel located in the Capitol Hill neighborhood, fronting 16th Avenue between E Olive Street and E Madison Street (Council District 3). Attachment A shows the area that would be rezoned.

The area to be rezoned is one of two adjacent parcels that would be developed together under Land Use Application 3030517-LU. The second parcel, south of the rezone area, is currently zoned Neighborhood Commercial 3-75 (M). Combined, the two parcels are 15,000 square feet in size. The application includes a Master Use Permit to redevelop the site with a seven-story mixed-use building with 88 units, and approximately 1,456 square feet of ground floor space intended to be occupied by a restaurant. The project includes 105 parking spaces, with 52 spaces intended for the residents of the building and 53 spaces intended to be used by

staff and visitors to Jewish Family Service's facility on the west side of 16th Avenue. The Applicant intends to satisfy MHA program requirements through the payment option.

On September 18, 2023, the Seattle Department of Construction and Inspections (SDCI) issued a recommendation to approve the application with conditions. On October 11, 2023, the Hearing Examiner held an open-record public hearing on the proposed rezone. On November 13, 2023, the Hearing Examiner filed a recommendation of conditional approval. On November 17, 2023, the Hearing Examiner published an amended recommendation of conditional appeal dated November 11, 2023. On December 8, 2023, the Land Use Committee of the Council reviewed the record and the recommendations by SDCI and the Hearing Examiner and recommended approval of the contract rezone to the City Council.

Findings of Fact

The Council hereby adopts the Hearing Examiner's Findings of Fact as stated in the Amended Findings and Recommendation of the Hearing Examiner dated November 11, 2023.

Conclusions

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Amended Findings and Recommendation of the Hearing Examiner dated November 11, 2023.

Decision

The Council hereby **GRANTS** a rezone of the property from Lowrise 3 with an M Mandatory Housing Affordability suffix (LR3 (M)) to Neighborhood Commercial 3-65 with an M1 Mandatory Housing Affordability suffix (NC3-65 (M1)), as shown in Exhibit A. The rezone is subject to the execution of a Property Use and Development Agreement (PUDA) requiring the owners to comply with the following condition for the life of the project:

CONDITION

Prior to Issuance of a Building Permit

1. Submit a copy of the approved Property Use and Development Agreement (PUDA) (required pursuant to SMC 23.34.004) containing the following condition of approval: Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit 3030517-LU.

Dated this _____ day of _____, 2024.

City Council President

ATTACHMENT A

