

FILED
CITY OF SEATTLE

BEFORE THE SEATTLE CITY COUNCIL

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CITY CLERK

In the Matter of the Application of
DAVID FUCHS
For approval of a rezone of property
Located at 7009 Greenwood Avenue North

CF 314356
SDCI Project No. 3023260
SDCI Response to Appeal

Irene Wall and Bob Morgan have submitted an appeal of the Findings and Recommendations of the Seattle Hearing Examiner. This is SDCI's response to arguments raised in that appeal.

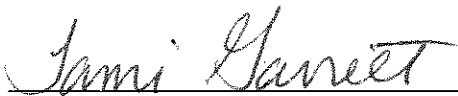
Appellants argue that the proposed zoning designation, NC2-55(M) does not exist in the Land Use Code in the Phinney Ridge Neighborhood. However, nothing in the code requires that there must already be property in the neighborhood with a particular zoning designation in order for that designation to be applied to a new property through a contract rezone. The zoning designation with a 55-foot height limit and the "(M)" suffix are both relatively new, but there are standards in the code relating to these components of the zoning designation. (See, e.g., SMC 23.47A.017.) The list of zone classifications in SMC 23.30.010 does not individually address every possible suffix in a zone designation, but suffixes for height limits and "letter suffixes...enclosed in parentheses indicating the applicability of mandatory housing affordability provisions" are discussed, generally, in SMC 23.30.010.B. At least one other property in the city, at 1410 - 24th Avenue, is currently zoned NC2-55(M). The Appellants argue that there are no specific rezone criteria for the NC2-55(M) zone. But there are no rezone criteria in Chapter 23.34 for any other specific height limit that might be included in a zoning designation, either. There are general criteria relating to zoned height limits, in SMC 23.34.009, and these were considered in the Department's and Hearing Examiner's analysis.

For purposes of the Land Use Code, and as reflected in the definition of "lot" in SMC 23.84A.024, a "lot" is generally the unit of property to which development standards are applied. For purposes of these standards, a "lot" may include multiple platted lots, or portions of platted lots, or tax parcels. The term "development site," while not in the Land Use Code, is sometimes used to clarify that a reference is to the entire property that is the site of a proposed development. In this case, the lot includes all or part of ten platted lots, and four tax parcels. Applicable code provisions include setbacks from certain lot lines or property lines. The lines from which setbacks are required under the code are the lines that form the boundary of the entire lot (development site) as opposed to platted lot lines or zone boundary lines within the site, or tax parcel lines. The appeal includes multiple assertions that the proposed development fails to meet development standards. These are all based on the misapprehension that the zone boundary line (which coincides with some underlying platted lot lines and tax parcel lines) should be treated as a rear lot line.

Appellants erroneously assert (at page 4) that under SMC 23.34.004, a PUDA may not include restrictions on a portion of a site where the zoning designation is not proposed to change. Nothing in that section says that a contract rezone can't change the zoning designation of a part of a lot, alone, or that the portion of the lot for which the designation is changed must be regulated as a separate lot. In the event of such a contract rezone, nothing in SMC 23.34.004 says that conditions may not be imposed through the PUDA on portions of the property for which the zoning designation is not changed.

Appellants argue that nothing would prevent the applicants from selling off the existing single-family residence at 7010 Palatine Avenue North, on the Single-Family-zoned portion of the property, or building another single-family house on the remainder of the site in the Single Family zone. This is not accurate: Because the 7010 Palatine Avenue North property will be required to meet development standards for the proposed building, it will no longer qualify as a separate legal building site under the Land Use Code. It may be possible to do a lot boundary adjustment so that the proposed commercial/residential building will retain a portion of the property in the Single Family zone in order to continue to meet standards. For this to be approved, it would have to be demonstrated that the existing house meets development standards without requiring the eastern portion of the property that would have to remain a part of the site of the commercial/residential building. The same issue would apply to a proposal to develop the vacant parcel to the south in the Single Family zone with a new house. If the portion of the property that is in the Single Family zone remains a part of the site of the commercial/residential building, an additional house may not be built in that area, as this would result in two single-family houses on the same lot in a Single Family zone, which is not allowed under SMC 23.44.006.A. In order for the parcel to be split off for separate development, a lot boundary adjustment would be necessary so that the site of the commercial/residential building continues to include sufficient area to meet development standards such as setback requirements.

Dated this 9th day of July, 2018.



Tami Garrett, Senior Land Use Planner
Seattle Department of Construction and Inspections

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CERTIFICATE OF SERVICE

I, Tami Garrett, certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached SDCI Response to Appeal to each person listed below in the manner indicated.

Party	Method of Service
Applicant Applicant Legal Counsel Jessica Clawson Jessie@mhseattle.com David Fuchs dfuchs@johnstonarchitects.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Appellants Appellants Legal Counsel Jeffrey M. Eustis eustis@aramburu-eustis.com Irene Wall iwall@serv.net Bob Morgan bmorgan@comcast.net	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

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