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APPLICATION FOR DAVID FUCHS
FOR JOHNSTON ARCHITECTS FOR A REZONE OF
7009 Greenwood Avenue North, Seattle, Washington
FILE NUMBER CF 314356
APPLICATION NUMBER 3023260

PLANNING, LAND USE AND ZONING COMMITTEE HEARINGS
JULY 18, 2018 and AUGUST 1, 2018

FULL COUNCIL MEETING
AUGUST 6, 2018

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MR. AN: Clerk File 314356, application of 70th and Greenwood Avenue, LLC, to rezone in approximately 12,188 square foot site located at 7009 Greenwood Avenue from Neighborhood Commercial 2 with a 40' height limit (NC2-40) to Neighborhood Commercial 2 with a 65' height limit (NC2-65).

MR. JOHNSON: So this is one of our more complicated contract rezone, colleagues. We don't plan on taking any action on this today, but this is one of those instances where we have some procedural issues that we need to address in our quasi-judicial manner, as we contemplate potential future action on this. Again, a reminder to folks in the audience and those watching along at home that we will not be taking any action on this today, but this is part of the procedural process that we need with this complicated project. How did I do, Mr. Freeman?

MR. FREEMAN: Did very well.

MR. JOHNSON: Okay. So why don't you walk us through a little bit of the orientation on this one, and then we'll talk about some of those procedural issues that we'll take up today.

MR. FREEMAN: Sure. So today the committee will be hearing oral argument related to an appeal of a Hearing Examiner's recommendation for contract rezone of a site located at 7009 Greenwood Avenue North. You have in front of you paper copies of briefings. Those are also included in the clerk's file for this project. That's clerk's file 314356.

1 I'll say a few things here about process, and the standard of
2 review and burden of proof, talk a little bit about the chronology
3 of the project, walk through at a high level what the project would
4 be like for the benefit of the public and the committee, and then
5 we can take up a couple of procedural matters, and there are two of
6 them. One has to do with the title to the clerk's file, which
7 needs to be revised to reflect the current project. And also an
8 objection that the Applicant has made to an illustrative Exhibit
9 proposed by the Appellant. And then after that the committee can
10 hear oral argument from the Appellant and the Applicants.

11 MR. JOHNSON: Clear?

12 MR. FREEMAN: All right.

13 MR. JOHNSON: I think everybody's got it.

14 MR. FREEMAN: Okay. So with respect to process, of course
15 this is a contract rezone which means that the Council's acting in
16 a quasi-judicial capacity, not in a legislative capacity. So the
17 Council sits kind of like a bank of judges. The Council's
18 restricted in its decision making to the record that was compiled
19 by the Hearing Examiner. The Hearing Examiner held an open record
20 public hearing on April 30th of this year.

21 There's a standard of review and a burden of proof that
22 applies to this appeal. The standard of review is a substantial
23 evidence standard of review, which means that if the counsel
24 decides to modify or deny the rezone application, that has to be
25 based on substantial evidence in the record.

1 And finally the Appellant bears the burden of proof here. So
2 the burden is on them to demonstrate that the Hearing Examiner
3 erred.

4 With respect to the project itself, the Applicant applied in
5 December of 2016. One of the reasons that we're changing the
6 clerk's file is that they revised their application in February of
7 2018 to reflect a different height limit. In April of 2018, SDCI
8 issued an affirmative design review and SEPA decision, and a
9 recommendation to approve the rezone. On April 30th the Hearing
10 Examiner held an open record public hearing. On June 5th the
11 Hearing Examiner recommended conditional approval of the rezone
12 application. And then finally, that recommendation was appealed on
13 June 19th, which brings us to where we are today.

14 So with respect to the project itself, at the highest level,
15 it is a mixed use project that's proposed for 7009 Greenwood Avenue
16 North. It's within the Phinney Ridge Urban Village. The current
17 zoning of the site is NC2-40. The Applicant seeks a rezone to
18 NC2-55(M). The project has multiple zone designations. The east
19 half of the project is zoned Neighborhood Commercial 2-40. The
20 site also includes two single family zoned lots, those are numbered
21 2 and 3 there. And the transition between the Neighborhood
22 Commercial and the single family is something that you'll hear
23 about in oral argument, I believe today.

24 Here is a general site plan for the project. It's a 35 unit
25 mixed used building. It'll have 6000 square feet of retail space,

1 approximately 26 parking spaces in a subterranean garage. And the
2 record indicates that they have planned to apply for the
3 Multi-Family Tax Exemption, and also potentially MHA through
4 performance as well. There's a single family house that's located
5 on part of the site, and that single family house is proposed to
6 remain.

7 Here is a view looking north, to give a sense about heights
8 and dimensions. The project site is there in the middle in orange,
9 tapering off to the west. And there's NC2-40 zoning also across
10 Greenwood Avenue North. That rendering up there on the top is a
11 view looking to the northeast, and you can see on the left hand
12 side where the green space would be, the garage, the entrance --
13 the access to the garage and an upper level setback there above the
14 fourth floor.

15 And finally here are two views looking along Greenwood Avenue
16 North. The top one is the view from the north looking south,
17 showing the project site in relation to the buildings around it.
18 And then the bottom is the view looking north from the south,
19 showing an adjacent church that's across the street from the
20 project, and the project itself.

21 So that is the project in a nutshell. And we can now move on
22 to procedural matters, unless you have any questions.

23 MR. JOHNSON: So we've got a couple of things that we need
24 to handle here. One of them, I think, is an amendment to the title
25 of the clerk file. But seeing that we're not going to take action

1 on the clerk file today, Ketil, do we still need to move for
2 discussion purposes the amendment to the clerk file, or can that be
3 held until we might take action at the next committee discussion?

4 MR. FREEMAN: You could do it today, or you could do it at
5 the next committee meeting. It's really just a clerical change to
6 show the change between the original application and the revised
7 application that's before the Council now.

8 MR. JOHNSON: If there's no objection, colleagues, I think
9 I'd like to hold off that until we might have the full suite of
10 things in front of us, and then just focus today on the procedural
11 issues. Okay. Knowing that we will have to amend the title when
12 we come back around to it to reflect the height that the
13 Applicant's put forward, should the clerk file be in front of us
14 the next time.

15 Additional procedural things; I understand that we have to do
16 some quasi-judicial rulings here on a particular issue that was
17 submitted recently.

18 MR. FREEMAN: Sure. So the Appellant has submitted an
19 illustrative Exhibit. And an illustrative Exhibit is an Exhibit
20 that essentially is an argument put to pictures. It uses actually
21 a portion of -- it adapts this to try to demonstrate where the
22 Hearing Examiner erred, according to the Appellants.

23 The Council has allowed illustrative Exhibits in the past. An
24 illustrative Exhibit is distinct from say a supplementation of the

25

1 record in that supplementation of the record would require
2 something new.

3 The Council has a couple of choices here -- the committee has
4 a couple of choices. The committee could sustain the objection, in
5 which case the Appellant would not be able to use the illustrative
6 Exhibit. The committee could also overrule the objection, in which
7 case the Appellant could use the illustrative Exhibit. It would
8 not become part of the substantive record for the rezone
9 application. It would become part of the procedural record for the
10 rezone application. And the objection by the Applicant would be
11 noted in the procedural record, and could form the basis for
12 arguments that they could make should there be an appeal to
13 Superior Court.

14 MR. JOHNSON: Ketil, does the Exhibit include new
15 information that wasn't included in the record?

16 MR. FREEMAN: It does not appear to contain new
17 information.

18 MR. JOHNSON: Okay.

19 MR. FREEMAN: Yeah.

20 MR. JOHNSON: So it's basically sort of a visual rendering
21 of some of the arguments that the Appellants might have made using
22 this rendering of the project as the baseline for those arguments?

23 MR. FREEMAN: Correct, yeah.

24 MR. JOHNSON: Okay. Colleagues, my recommendation on this
25 is to overrule the objection and allow for an illustrative example

1 to be shown. If there's no new information that is contained in
2 that illustrative example, I don't see any reason why we shouldn't
3 allow the Appellants to the project to use this visual to highlight
4 changes that they think that the Hearings Examiner might have
5 missed.

6 MR. FREEMAN: And just to be clear, it is not this visual.

7 MR. JOHNSON: Oh.

8 MR. FREEMAN: This is --

9 MR. JOHNSON: Sorry.

10 MR. FREEMAN: -- something for the record that is an
11 adaptation of this visual.

12 MR. JOHNSON: Sorry.

13 MR. FREEMAN: Yeah.

14 MR. JOHNSON: Yeah, okay. So in order to take action on
15 that, Ketil, I assume I have to actually move to overrule the
16 objection?

17 MR. FREEMAN: Yes.

18 MR. JOHNSON: So I move to overrule the objection.

19 MS. HERBOLD: Second.

20 MR. JOHNSON: Any further discussion on this? All those
21 in favor of overruling the object, please say aye. Aye; none
22 opposed. So that is added then to the -- did you say illustrative
23 record?

24 MR. FREEMAN: It's added to the procedural record, which
25 means that it doesn't become part of the substantive record that

1 the Council uses in making its decision. It just becomes part of
2 the procedural record where the briefing materials go as well.

3 MR. JOHNSON: Any other procedural issues that we need to
4 rule on at this point, Mr. Freeman?

5 MR. FREEMAN: No. So if the committee's ready to hear
6 oral argument, I'll notify the parties that they'll each have eight
7 minutes, and that the Appellant can reserve up to three minutes for
8 rebuttal testimony. And if you all have questions, you can ask
9 them in the course of their argument, or after their argument.

10 And I'll sort of preview kind of the next steps here. After
11 hearing oral argument today, you all may have additional questions
12 or direction to me, and I'm available to help dig through the
13 record and look at other things that you may be interested in in
14 making a decision about the appeal by the Appellant.

15 MR. JOHNSON: Yeah. And so if I remember correctly, the
16 run of show for oral arguments is Appellant, Applicant, and
17 Appellant, if the Appellant chooses to reserve some time for
18 rebuttal?

19 MR. FREEMAN: That is correct.

20 MR. JOHNSON: Okay.

21 MR. FREEMAN: Yeah.

22 MR. JOHNSON: Great. Further questions procedurally,
23 folks, or should we get started with the oral arguments? Okay,
24 let's get started. So we'll start with the Appellants. Please

25

1 come forward. I believe we had planned on giving you five minutes,
2 if I have that correct, for the beginning.

3 MR. EUSTIS: Just for clarification, when you said come
4 forward, did you want us to come forward to your table or speak
5 from here?

6 MR. JOHNSON: We were planning on having you address us
7 from the podium, if that's acceptable to you.

8 MR. EUSTIS: Okay. I do have some handouts of Exhibits
9 from the record and --

10 MR. JOHNSON: Please feel free to give them to the clerk,
11 and he will make sure --

12 MR. EUSTIS: Okay, thank you.

13 MR. JOHNSON: -- to hand them over to us. And Mr. Eustis,
14 we're planning to put eight minutes on the clock, so you know,
15 we'll just do the countdown. And whatever time is left over when
16 you conclude oral arguments, we'll reserve that for the end. We
17 were told that you may want to reserve up to three minutes, but
18 we're going to give you the full eight, and then we'll stop it
19 whenever you stop, and whatever's leftover will allow for you to
20 reserve for rebuttal after the Applicants' have their turn.

21 MR. EUSTIS: All right. Just so I can discipline myself,
22 I will reserve three minutes.

23 MR. JOHNSON: Okay.

24 MR. EUSTIS: So wherever I am after five I will stop.

25

1 MR. JOHNSON: So we will stop you at five minutes on the
2 dot then, Mr. Eustis, and hold you to that standard. Okay. While
3 everybody gets sort of shuffled around, Mr. Eustis, you tell us
4 when you are ready to proceed. Whenever you're ready.

5 MR. EUSTIS: Good morning. Again, Jeffrey Eustis speaking
6 for the Appellants. And you have two Appellants, Irene Wall and
7 Bob Morgan, who are residents of Phinney Ridge. And they are with
8 me here in the audience.

9 Before we begin I want to highlight a number of things. First
10 of all, there is a notice of appeal, some 19 pages. Second, we
11 have a reply. The reply has attached to it 13 Exhibits, the reply
12 is some 26 pages. And I would hope that you would read those
13 things. I don't have anywhere near the amount of time necessary to
14 cover those arguments.

15 So in this argument here today I will focus on principally
16 three or four issues. First, I want to put this rezone in context.
17 The first document I handed out to you was a map of the
18 Greenwood/Phinney Ridge Urban Village. And this is a unique
19 village in that it runs essentially a half block either side of
20 Greenwood and Phinney for roughly a mile, from 85th down to 65th.
21 That strip is zoned NC2-40, and behind it on either side is single
22 family zoning, principally SF 5000.

23 Second, in the presentation in many of the materials, there is
24 discussion of the site. The site, for purposes of this proceeding,
25 is the NC2-40 site for which there is a rezone application to

1 NC2-55. The rezone does not cover the single family site that is
2 located to the west. The Property Use and Development Agreement
3 does not cover the property located to the west. It covers the
4 rezone site. This is a contract rezone.

5 The third point that I wanted to raise in general is that in
6 the exercise of this quasi-judicial authority, the City Council
7 must apply the laws as written. There are requirements of
8 uniformity. Unless the City Council wants to get in the business
9 of specially zoning each piece of property, it's important for the
10 City Council to adhere to those standards.

11 Okay. My next point is that in entertaining this contract
12 rezone, the Applicant and the City are putting the cart before the
13 horse. The cart before the horse is because NC2-55 does not exist
14 in this area. The criteria for NC2-55 in this area have not been
15 worked out. And so for that purpose, essentially this is a
16 recommendation approved by the Hearing Examiner, proposed by the
17 Applicant, reviewed by the City to rezone property to a
18 non-existent zone. And effectively you can't do that. You can't
19 be borne before your older sister. You can't move yourself up in
20 time. The NC2-55 has not happened.

21 The next point I want to raise is even if you indulge this
22 application in amending the site to NC2-55, the zoning is neither
23 fish nor fowl. It's not fish because the development that is
24 projected for approval through the PUDA doesn't comply with other
25 standards of the zoning code. It doesn't comply with the

1 requirement for second level setback of 13' above commercial. It
2 doesn't comply with upper level setback, and it doesn't comply with
3 other requirements for setback at the corner. And that is the
4 second Exhibit that I handed out, which is a copy of the
5 illustrations in the zoning code that at one point were topics of a
6 notice for correction, but then disappeared.

7 And the next point I want to raise is there is no basis to
8 indulge in this notion of a development site. It is not a defined
9 term of code. And the property at issue is --

10 MR. JOHNSON: Thank you, Mr. Eustis.

11 MR. EUSTIS: This is five minutes?

12 MR. JOHNSON: That was your five minutes.

13 MR. EUSTIS: Good enough. Thank you very much.

14 MR. JOHNSON: Anyone here for the Applicants? I thought
15 there might be. We're going to reset the clock for you at eight
16 minutes. And go ahead whenever you're ready.

17 MS. CLAWSON: I am ready. Hello, Council members, and
18 Ketil. I am Jessie Clawson. I am the attorney for the Applicant
19 owner for the contract rezone. Ketil's already reminded you of the
20 Appellant's burden of proof which we don't believe has been met
21 here, and the fact that the Council's decision here and the
22 Examiner's decision is supported by substantial evidence in the
23 record.

24 I want to highlight some facts about the project for the
25 Council, and then address some of the Appellants arguments. Again,

1 just like Mr. Eustis stated, this was a lengthy appeal with several
2 arguments. The reply included several additional arguments that
3 were not raised in the initial appeal. We don't have time to go
4 over everything. So I would again encourage you to read the
5 documents that are in the record, and the briefing that we have
6 provided.

7 A summary of the project; I'll refer lightly to Exhibit 50,
8 which was part of your agenda packet. That was the presentation
9 that the Applicant made to the Hearing Examiner, in addition to all
10 of these documents right here in this binder that were made part of
11 the record before the Hearing Examiner.

12 This project is exactly the project that fits in this
13 location, and is what the City's policymakers want in a
14 multi-family project in the City of Seattle. As discussed in our
15 appeal response, this project came about because a group of friends
16 essentially were finding that it's inefficient to live separately
17 in single family houses with separate yards, and separate tools.
18 And they wanted to create a sense of community in a multi-family
19 building. They wanted to create a building that multi-generations
20 could live together long term in the same neighborhood that they
21 reside today. And you can see the owners' goals on page 20 of
22 Exhibit 50, which again, the Council has.

23 The owners conceived of an idea which they would invest in and
24 build a multi-family project where they could live, but also rent
25 apartments to others at affordable rates and in family sized units,

1 sustainably sharing resources. This is the Shared Roof project
2 that we're talking about today.

3 The project is a 35 unit building with 6200 square feet of
4 retail. The retail is being leased to 100% local small businesses.
5 This isn't required by the code, it's something that the owners
6 believe in and that they want to do, and that the community wants.

7 The project includes 2100 square feet of publicly accessible
8 open space in the courtyard of the building. That was provided,
9 again, as something that the community wanted, but also that will
10 support the local retailers in the building. Not required by the
11 code, something the owners wanted to do. 60% of the apartments are
12 family sized, including a mix of two, three and four bedroom
13 apartments. Four bedroom apartments, I've looked, they don't
14 exist. I was trying to figure out if I could do a four bedroom
15 apartment. They're so rare. This unit places an emphasis on
16 family and multi-generational living.

17 The project implements the City's proposed MHA rezone at
18 NC2-55(M), which does exist. It complies with the City's Mandatory
19 Housing Affordability program, in compliance with Director's Rule
20 14-2016.

21 The project will participate in the MFTE program, which
22 provides one studio, two one-bedrooms, three two-bedrooms, and one
23 three-bedroom unit as affordable under MFTE at the required rates.

24 Though the project is located in a frequent transit zone, and
25 no parking is therefore technically required, the owners heard from

1 the Phinney Ridge community that parking is an issue in their
2 neighborhood. And so at great cost, the owners provided a ratio of
3 about .75 parking stalls per unit. It also includes more than the
4 required bicycle parking. The owners actually bike everywhere, so
5 it's very important to them.

6 The owners worked carefully with the community in its design
7 and planning efforts. They had multiple meetings with community
8 members, including individual meetings with the Appellants that are
9 here today. The building uses high quality materials, including
10 masonry brick for a majority of the facade.

11 Despite the Appellants' statements, it was notable for me at
12 the rezone hearing that several members of the Phinney community,
13 very active people in their community, came to speak in favor of
14 the project. The projects I work on, that never happens. Dozens
15 of public comments were received by SDCI and are in the record that
16 support this project specifically from members of the community.

17 Finally this building is LEED Platinum, despite no green
18 building requirement. Again, the owners just have a very deep
19 commitment to sustainability.

20 This building is exactly what the City policymakers are trying
21 to achieve in multi-family developments in neighborhoods. It fits
22 perfectly in this neighborhood.

23 Addressing the Appellants' arguments just briefly again.
24 First, related to all of the zoning arguments that the Appellant
25 raises. Compliance with zoning is actually not relevant to this

1 proceeding. The Council right now in its consideration of the
2 appeal, and then its consideration of the rezone, are limited to
3 the rezone criteria in front of them that are listed in Chapter
4 23.34. Compliance with zoning is actually not one of those
5 criteria. So we would argue that any claims related to compliance
6 with zoning are actually not properly before the council.

7 The Appellants had the opportunity to file a zoning
8 interpretation and appeal of the MUP decision. They chose not to.
9 So we feel that those issues are just simply not properly before
10 the Council today.

11 Addressing the rezone criteria. The Examiner's decision is
12 supported by substantial evidence in the record. And then the
13 application itself is supported by substantial evidence in the
14 record. As the Council knows, no one criteria is controlling when
15 reviewing rezones. 23.34.007 states that provisions of the Chapter
16 shall be weighed and balanced together, and that no single
17 criterion or group of criterion shall be applied as an absolute
18 requirement or a test. This is exactly what the Examiner did, and
19 what we encourage the Council to do; to look at everything as a
20 whole.

21 The Appellants make the claim that the rezone doesn't work
22 within the neighborhood context and the height limits of the 40'
23 zone. That is simply not true. In the 40' zoning, and I think
24 actually page, I think 5, of Ketil's presentation, shows the
25 context very well how the building fits within the context. But in

1 the existing 40' zoning surrounding the building, a project could
2 be built to a 59' height, with 4' bonus, 15' appurtenances. Our
3 project fits quite well within the existing zoning envelope and the
4 existing context today.

5 The Appellants make the claim that -- Mr. Eustis just said
6 that NC2-55(M) does not exist and therefore you can't rezone to
7 that zone. We'll say the Council just heard a rezone that is doing
8 exactly that, going to an MHA zone. And there are several rezones
9 that the Council has granted that have gone to the MHA zones. So
10 there is evidence in the record that it does exist. SDCI believes
11 it exists. We don't believe that that argument is supported by
12 substantial evidence on their part.

13 MR. JOHNSON: Thank you, Ms. Clawson.

14 MS. CLAWSON: Thank you.

15 MR. JOHNSON: Mr. Eustis, your three minutes that were
16 reserved for rebuttal. Whenever you're ready.

17 MR. EUSTIS: Thank you. So I'd like members of the
18 committee to bring out the third document that I made reference to.
19 This is the illustrative Exhibit. Counsel for the Applicant
20 correctly read the code that the criteria for rezoning, no
21 particular criteria is dispositive; that there's no hierarchy,
22 etcetera. But she did not go on and read the important proviso
23 which says, unless a provision indicates the intent to constitute a
24 requirement or a sole criterion. And then you go to section
25 23.34.009 D. 2. which says, a gradual transition in height and

1 scale and level of activity between zones shall be provided, unless
2 major physical buffers, as described, are provided.

3 Okay. So that language is cited up in the left hand corner.
4 So there is a mandatory requirement by use of the word shall that
5 there be a gradual transition. There is no gradual transition in
6 height and scale. The illustration over on the right shows that
7 you go abruptly from five stories of development -- five stories,
8 one story beyond what is currently allowed by NC2-40, and you go to
9 a single family parcel.

10 In a prior document that Mr. Freeman presented, he showed the
11 adjacent development on the single family properties to the west;
12 showed a detached accessory dwelling unit on the adjacent single
13 family property, and then a single family house. Well, that begs
14 the question of what a detached accessory dwelling unit on a free
15 standing single family lot would be accessory to. But putting that
16 point aside, this does not call for a gradual transition.

17 The other point I wanted to raise with respect to height, and
18 this is shown in Exhibit 53 presented to the Examiner, is that in
19 fact, going up to the 57 or the 59' that counsel just spoke of,
20 would block views of the Cascades. As a general matter, apart from
21 an easement, people don't have protected views across other
22 property. But in this area for commercial development, additional
23 height is not allowed if it would block views of the Cascades. And
24 here, they propose additional height in terms of a 12' greenhouse.
25 That is not allowed.

1 MR. JOHNSON: Thank you, Mr. Eustis.

2 MR. EUSTIS: Thank you.

3 MR. JOHNSON: That concludes oral arguments on this topic.
4 Mr. Freeman, anything that you would like to add at this point?

5 MR. FREEMAN: No, just to reiterate that the committee
6 could take this up again as soon as August 1st. Because there is an
7 appeal, there's some additional time for the committee to consider
8 this rezone application and appeal. Deadline for full counsel
9 action is October 4th on this. I don't know if that falls on a
10 Monday or not, but the Monday closest to that, or just before that
11 date.

12 If you have any questions about the arguments that you've
13 heard today, or that you've read in the briefings from the
14 Appellants and the Applicant, I'm available to rummage through the
15 record for you and pull out the appropriate Exhibits. If you have
16 questions about matters of law, I'm available for that as well, and
17 will be consulting with the law department on that stuff.

18 MR. JOHNSON: I just have two quick questions that I think
19 would be helpful us to understand the procedural process that we
20 would go through at a future committee discussion. The first of
21 which, there seems to be a difference between the Appellants and
22 the Applicants about whether or not a Neighborhood Commercial 55'
23 zone exists. In previous MHA rezones where the old zoning, for
24 lack of a better term, would have been 40', have we taken either in
25 the ID, Central District, U District, or downtown, South Lake

1 Union, or Uptown, have we taken a zoning typology from NC2-40 to
2 NC2-55?

3 MR. FREEMAN: The answer to that is yes. In the rezones
4 along the 23rd Avenue corridor and some of those nodes, there are
5 now NC-55 zones.

6 MR. JOHNSON: Okay. And then sort of my second question
7 is, can you talk to us a little bit about the thing that you sort
8 of addressed earlier, which is if the committee were to reject the
9 rezone, there's a substantive burden of proof, I think you said.

10 MR. FREEMAN: So -- yeah.

11 MR. JOHNSON: That gets into a little bit --

12 MR. FREEMAN: So there's --

13 MR. JOHNSON: -- of the legalese that --

14 MR. FREEMAN: There is a standard of review here, which is
15 a substantial evidence standard of review. So to determine that
16 the Hearing Examiner erred, that has to be supported by substantial
17 evidence that's in the record.

18 MR. JOHNSON: Okay. Please, Council member Herbold.

19 MS. HERBOLD: Thank you. So a follow-up to your first
20 question, Chair Johnson. So we have established that there is a
21 55' height zoning in the code in other areas of the City. But it's
22 contained within MHA implementation legislation. Does that fact
23 mean that the language associated with that zoning, the rezone
24 criteria, of requiring a gradual transition is also -- does it sort
25 of come with the concept of a 55' height zone?

1 MR. FREEMAN: So I think there's some discretion here for
2 the Council in answering that question. I don't have an answer for
3 you today. I think that's the kind of thing we could take a look
4 at the record and see what the Exhibits would look at -- but there
5 are some -- or demonstrate. But there are a criteria that has
6 to -- a rezone criteria -- there is a rezone criteria that has to
7 do with gradual transitions. There's some judgment here that the
8 Council can exercise on whether or not the Hearing Examiner
9 correctly determined that there was a transition associated with
10 this project.

11 But there are not specific criteria in the land use code that
12 relate to different zone height data.

13 MS. HERBOLD: And then the other question I have is given
14 that the two single family lots are not part of the rezone, there's
15 this question of whether or not we can have criteria associated
16 with those lots that are part of the PUDA.

17 MR. FREEMAN: So in the past the Council has applied --
18 through a Property Use and Development Agreement has limited
19 development on portions of a site that are not proposed to be
20 rezoned. I think a most recent example is 1203 East Spruce Street.
21 There the proposal was to rezone a portion of a site that was part
22 of a larger project site, but not the entire site. The Properties
23 and Development Agreement applied to the entire site, not just the
24 rezone portion. So the Council has done that in the past.

25

1 MS. HERBOLD: And then I guess the other question I would
2 have relates to the MHA requirements. Could the Council condition
3 this project at the 65' requirement for MHA?

4 MR. FREEMAN: So I'll consult with the law department
5 about that, but my first instinct is probably to say no, the
6 Council could not do that. The committee will recall, in the
7 course of setting up the MHA framework, the City directed SDCI to
8 promulgate by rule the MHA requirements that would apply to
9 contract rezones. And that sets up something that is very similar
10 to the concept that the Council's considering now. But it does
11 establish the bumps, and what sort of payment and performance would
12 go along with those bumps. This would be an (M) bump, not an (M-1)
13 bump.

14 MR. JOHNSON: Further questions or thoughts, colleagues?
15 Okay, I'm not seeing any. At this point procedurally we are
16 planning to not have a second committee discussion in August. So I
17 was planning on bringing this one back for further discussion at
18 our August 1st meeting. So I would encourage you and your staffs to
19 connect with Ketil if there are issues that you feel like you need
20 to sort through between now and the 1st of August. But it is my
21 intention that we will take action on this contract rezone out of
22 committee on the 1st, unless there's significant objections or other
23 legal reasons that arise between now and the 1st.

24 If not, as Ketil mentioned, there is time for us to consider
25 this in September because we don't have a deadline here until early

1 October. But my preference would be to not let this one linger too
2 much longer. Great, thank you very much.

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1 MR. JOHNSON: So we'll now move on to our first and second
2 agenda item related to the contract rezone of 7009 Greenwood
3 Avenue. Noah, would you please read the two items into the record.

4 MR. AN: Clerk file 314356, Application of 70th and
5 Greenwood Ave. LLC to rezone an approximately 12,188 square foot
6 site located at 7009 Greenwood Avenue from Neighborhood Commercial
7 2 with a 40' limit (NC2-40), to Neighborhood Commercial 2 with a
8 65' height limit (NC2-65).

9 And Council Bill 119323, an Ordinance relating to land use and
10 zoning amending Chapter 23.32 of the Seattle Municipal Code at page
11 39 of the official land use map to rezone property located at 7009
12 Greenwood Avenue North from Neighborhood Commercial 2 with a 40'
13 height limit, to Neighborhood Commercial 2 with a 55' height limit,
14 and Mandatory Housing Affordability suffix. And accepting a
15 Property Use and Development Agreement as a condition of rezone
16 approval.

17 MR. JOHNSON: Thank you. Welcome, Ketil Freeman from our
18 Council central staff. This is our second discussion on this topic
19 and we're planing to vote this out of committee today to stay
20 consistent with the timeline, as required. But you've got a memo
21 that you've drafted for us on this topic. Do you want to walk us
22 through any background before we go to that memo, or do you want to
23 just start with the memo?

24 MR. FREEMAN: Sure -- no, maybe for the benefit of the
25 committee and those folks who may be watching, I'll just refresh

1 the committees memory about some of the chronology here, describe
2 the project briefly, remind the committee about some procedural
3 stuff, and then proceed to a committee recommendation.

4 With respect to materials, Council member Johnson mentioned
5 that there is a memo from me. Attached to that memo are two draft
6 findings and conclusions and decision documents. Those are options
7 for the committee to consider today. Both would conditionally
8 approve the contract rezone application. One would modify the
9 Hearing Examiner's recommendation to the Council.

10 With respect to process, as the committee knows, this is a
11 quasi-judicial decision of the Council, which means that the
12 Council is acting as a bank of judges and is restricted in its
13 decision making to a factual record compiled by the City Hearing
14 Examiner. There has been an appeal. The Council got a briefing on
15 the appeal and heard oral argument on the 18th.

16 And there is a standard of review and burden of proof that
17 applies here because there is an appeal. And that standard of
18 review is a substantial evidence standard, which means that if the
19 Council wants to conclude something different from the Hearing
20 Examiner, it has to be based on substantial evidence in the record,
21 and the burden of proof is on the Appellants in demonstrating that
22 the Hearing Examiner erred. So that's all the procedural stuff.

23 With respect to this project, as the committee will recall,
24 this is for a mixed use project that's proposed in the Greenwood
25 neighborhood. It would have 35 units, approximately 60% of which

1 would be two bedrooms or more, with about 6000 square feet of
2 ground level retail space. And as the committee will recall, there
3 are multiple zones at play here. There is a Neighborhood
4 Commercial 2 zone where it fronts along Greenwood and 70th, and then
5 there is also a single family zone, which is part of the subject
6 site here, which is on the western edge of the property.

7 So unless the committee has any questions about those basics,
8 we can dive into our procedural thing, which has to do with the
9 title, and then discuss the options.

10 MR. JOHNSON: Doesn't appear to be any questions. Let's
11 talk procedures.

12 MR. FREEMAN: Okay. So as we mentioned last time, there
13 is an error in the clerk's file title. The clerk's file title
14 reflects an initial application, which has since been revised.
15 Initially the Applicant applied for a 65' height limit. There is a
16 revised title now that reflects the current proposed height limit
17 of 55' and also the (M), Mandatory Housing Affordability suffix,
18 which would go along with the contract rezone.

19 MR. JOHNSON: Any questions about that, colleagues? I'd
20 like to move the amendment title change to clerk file 314323 to
21 reflect the revised zone designation of 55' and the MHA (M1)
22 suffix.

23 MR. O'BRIEN: Is it (M1) or (M)?

24 MR. JOHNSON: Is it (M)?

25 MR. FREEMAN: It's an (M).

1 MR. JOHNSON: Is it (M) or (M1)?

2 MR. FREEMAN: It is (M).

3 MR. JOHNSON: I'm sorry, (M) suffix.

4 MR. O'BRIEN: Second.

5 MR. JOHNSON: Any further discussion on that? All those
6 in favor please signify by saying aye.

7 MS. HERBOLD: Aye.

8 MR. O'BRIEN: Aye.

9 MR. JOHNSON: Aye. None opposed. That amendment is
10 adopted.

11 MR. FREEMAN: Okay. So to approve a contract rezone, the
12 Council has to act on two pieces of legislation, a findings,
13 conclusion and decision document, which resides in the clerk's
14 file, and then also assuming that the Council decides to approve
15 the rezone, an Ordinance to effectuate that approval and what that
16 Ordinance does. Typically it changes the official land use map,
17 and also accepts the Property Use and Development Agreement with
18 conditions that are recorded against the property.

19 So there are two options here for the committee to consider.
20 There is an affirm option and a modify option. The affirm option
21 would adopt the Hearing Examiner's findings and conclusions and
22 conditionally grant the rezone, subject to two standard conditions.
23 And those conditions are that whatever is built there has to comply
24 with what's shown on the final approved plan set. And there's a
25 condition related to MHA compliance as well.

1 There's another option here, which is a modify option. And
2 this gets to one of the issues on appeal, which has to do with
3 whether or not a part of the single family zoned portion of the
4 site constitutes -- which would be preserved as open space --
5 constitutes a significant buffer for the purposes of the rezone
6 criteria.

7 For the committee to approve this modify option, the committee
8 would need to conclude that the Hearing Examiner erred in one of
9 his conclusions related to a transition between the Neighborhood
10 Commercial and the single family zone. This would approve the
11 rezone, but subject to three conditions. One would be a condition
12 that the Applicant provide setbacks at the zone boundary, which
13 would be the same setbacks that would be required if the single
14 family zoned property was in separate ownership, and that the final
15 plans reflect that, and also that they comply with MHA. So those
16 are the two options. There's an affirm option and a modify option.

17 MR. JOHNSON: And I think one of the issues that we heard
18 a little bit about during the appeal discussions was the concern
19 about developable nature of the open space between the single
20 family home that is not owned by the development entity and the
21 proposed project. And that green space, in and of itself, is
22 intended as part of the PUDA to be green space permanently, is that
23 correct, Ketil?

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1 MR. FREEMAN: So the PUDA would approve the plan as shown
2 in the Master Use Permit drawing. And the Master Use Permit
3 drawings currently showing that as being landscaped open space.

4 MR. JOHNSON: Okay. Council member Herbold.

5 MS. HERBOLD: Thank you. Could you speak to -- in the
6 modify option there is a need to create findings to support that
7 option. Can you just go over what those new findings would be?

8 MR. FREEMAN: Sure, yeah. So they would now be -- it
9 would be a different conclusion. The Council would need to
10 conclude, in part, that the Hearing Examiner erred in one of his
11 particular conclusions, it's conclusion number 7. And that
12 conclusion speaks to how the rezone application meets the rezone
13 criteria in 23.34.008 E. and 23.34.009 D. for those folks who are
14 in to the Land Use Code.

15 But it's essentially those two sections speak to transitions,
16 and scale, and intensity of uses, and when there can be -- and sort
17 of what can be considered in determining whether or not there is a
18 gradual transition in scale. And there's a section in that
19 conclusion, and also in that section of the code that talks about
20 physical buffers. And it lists certain kinds of physical buffers.
21 Rights of way can be a physical buffer, open space can be a
22 physical buffer.

23 The Hearing Examiner concluded, in part, that the open space
24 constituted a physical buffer, which allowed for a gradual
25 transition. If the Council wanted to modify that decision, the

1 Council would be relying on the evidence that was highlighted by
2 the Appellants here, about that not possibly being a sufficient
3 buffer. And as a consequence, that would give rise to the need for
4 an additional buffer, and that could be accomplished through a
5 setback requirement, which is a condition.

6 MS. HERBOLD: Thanks. I'm just going to sort of think out
7 loud on this. I mean I feel that the code does require setbacks.
8 But I've been assured that this decision does not create a
9 precedent, which I believe is one concern.

10 I also understand now that the open space can be included in
11 the -- or is included in the PUDA, and there are maybe some things
12 that we can do to strengthen the language in the PUDA around the
13 obligations to maintain the open space.

14 And thirdly I simply don't have support for this option. So
15 I'm wondering in lieu of bringing this forward if we could do two
16 things between now and Monday; work on strengthening the language
17 in the PUDA as it relates to the obligation to maintain open space
18 and have that be the proxy for accomplishing the goals of the
19 Appellant to have that transition. And two, there's some questions
20 about development sites. And that is sort of out of the scope --
21 addressing that issue is out of the scope of this Ordinance, but
22 it's something that we could take up at a later date. And Ketil,
23 you mentioned that we could sort of put a stake in the ground about
24 doing that; about defining what a development site is by including
25 a recital in the legislation.

1 MR. FREEMAN: Sure. I mean it remains to be seen what
2 that recital might look like, just to which you remarked on about
3 precedential effect. It's a standard condition of almost every
4 contract rezone. In the Properties and Development Agreement there
5 is something that describes the rezone itself as having a
6 precedential effect.

7 If the Council wanted to further discuss how this rezone plays
8 into its understanding of what a development site is, the Council
9 could recite some things in this Ordinance about this particular
10 approval, which could lay the groundwork for future legislative
11 action.

12 MS. HERBOLD: So if that's something that folks are
13 willing to consider between now and Monday, I'm going to probably
14 withdraw this option.

15 MR. JOHNSON: Happy to consider that.

16 MS. HERBOLD: All right.

17 MR. JOHNSON: And I think in particular, the option that
18 allows us to more clearly define the open space as permanent part
19 of the open space as per the Hearing Examiner's recommendation
20 about that buffer is something I'm happy to work with you on.

21 MS. HERBOLD: Thank you.

22 MR. JOHNSON: Council member O'Brien.

23 MR. O'BRIEN: Similarly support appropriate language that
24 strengthens the commitment to open space, at least around the
25 development site as the rules are here. And so I want to just --

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MS. HERBOLD: Yeah.

MR. O'BRIEN: -- see what we're talking about before making any commitment there.

MR. JOHNSON: Okay. So with that discussion then, I'd like to move for the affirm option.

MR. O'BRIEN: Second.

MR. JOHNSON: Further discussion about this, folks? All those in favor, please say aye.

MS. HERBOLD: Aye.

MR. O'BRIEN: Aye.

MR. JOHNSON: Aye. None opposed. So we've got both of those amendments adopted. Any final thoughts, Mr. Freeman, before we take final action on the clerk file?

MR. FREEMAN: No. And so as with all contract rezones, prior to Council taking action, of course, there has to be an executed Properties and Development Agreement. So between now and when the full Council takes this up, I'll work with the Applicant to get a Properties and Development Agreement executed.

MR. JOHNSON: So therefore then I'd like to move to grant clerk file 314323 as amended.

MR. O'BRIEN: Second.

MR. JOHNSON: All those in favor please say aye.

MS. HERBOLD: Aye.

MR. O'BRIEN: Aye.

1 MR. JOHNSON: Aye. None opposed. The clerk file's
2 adopted. And now the Council Bill. We have to basically recommend
3 passage of the Council Bill at this point, correct, Mr. Freeman?

4 MR. FREEMAN: Yeah. I just want to, I think perhaps your
5 notes have not been updated, or there may be some cutting and
6 pasting into your notes on motions here. The clerk's file that was
7 moved is 314356, just to be clear.

8 MR. JOHNSON: Oh, I'm sorry about that.

9 MR. FREEMAN: Yeah.

10 MR. JOHNSON: Did I -- oh, yes, I moved 314323. There
11 must have been some cutting and pasting. I apologize. So I need
12 to redo that clerk file motion then. So I'd like to move to adopt
13 clerk file 314356 as amended.

14 MR. O'BRIEN: I'll second that.

15 MR. JOHNSON: My apologies, colleagues. All those in
16 favor please say aye.

17 MS. HERBOLD: Aye.

18 MR. O'BRIEN: Aye.

19 MR. JOHNSON: Aye. None opposed, so that correct clerk
20 file is amended and adopted. So now we've got the Council Bill in
21 front of us. And I'm going to just double check to make sure that
22 I've got the right Council Bill here, and that's Council Bill
23 119323. And I'd like to recommend passage of that Bill.

24 MR. O'BRIEN: I'll second that.

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1 MR. JOHNSON: Further discussion? All those in favor,
2 please say aye. Aye. None opposed. So the associated Council
3 Bill is adopted as well.

4 MR. O'BRIEN: I have a quick question.

5 MR. JOHNSON: Please.

6 MR. O'BRIEN: What happens next? Ketil, you mentioned
7 that between now and full Council, whenever that happens, the PUDA
8 will be executed. And we've talked about language that strengths
9 it. So what's the process for the iterative to get that language
10 in, or do you already know what that language is going to look like
11 or --

12 MR. FREEMAN: Probably what it would look like would be a
13 specific reference to one or more sheets in the plan set, is
14 probably what it would look like.

15 MR. O'BRIEN: Great.

16 MR. FREEMAN: But those recitals are somewhat different
17 issue. Those will be an amendment to the Bill that would need to
18 be made at full Council.

19 MR. O'BRIEN: Correct.

20 MR. FREEMAN: Yeah.

21 MR. O'BRIEN: I got that part.

22 MR. FREEMAN: Yeah.

23 MR. O'BRIEN: Okay.

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1 MR. JOHNSON: So you make those references, that has to be
2 agreed to by all the parties if they're going to execute that PUDA,
3 is that right?

4 MR. FREEMAN: That's right. So I mean there's a choice
5 here for the Applicant. If the Applicant does not -- if there is a
6 condition that the Applicant cannot live with, so to speak, then
7 the Applicant could choose not to sign the Properties and
8 Development Agreement. If the Applicant doesn't sign the
9 Properties and Development Agreement, then Council action on the
10 Bill never happens.

11 MR. JOHNSON: Got it.

12 MR. FREEMAN: Okay.

13 MR. JOHNSON: And Council action on the Bill happens once
14 the PUDA's been signed, which may mean that we're up on Monday, and
15 may mean that it's the following Monday, depending on the timing,
16 correct?

17 MR. FREEMAN: That's correct, yeah.

18 MR. JOHNSON: Okay. Further discussion on this, folks?
19 Great. Thank you for joining us on this topic.

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1 MR. HARRELL: Please read the next agenda item.

2 CLERK: Agenda items -- the report of the Planning, Land
3 Use and Zoning Committee, agenda items 13 and 14, clerk file
4 314356, Application is 70th and Greenwood Avenue, LLC, to rezone an
5 approximately 12,188 square foot site located at 7009 Greenwood
6 Avenue North from Neighborhood Commercial 2 with a 40' height limit
7 to Neighborhood Commercial 2 with a 55' height limit and (M)
8 Mandatory Housing Affordability suffix.

9 The committee recommends the application be granted as
10 conditioned. Council Bill 119323 relating to land use and zoning.
11 The committee recommends the Bill pass.

12 MR. HARRELL: Okay. Before I turn the microphone over to
13 Council member Johnson, I believe we'll have to suspend the rules
14 to consider an amendment to clerk file 314356 that was not
15 distributed before 12:00 noon today. And Council member Johnson
16 can sort of work us through that. So unless there's any objection,
17 we're going to suspend the rules. And Council member Johnson, you
18 have the floor.

19 MR. JOHNSON: Okay. Thank you for that. There's a small
20 technical change that Council member Herbold will walk through,
21 'cause it's related to her amendment. This is the traditional
22 clerk file and Council Bill that we adopt whenever we have a
23 quasi-judicial contract rezone in front of us.

24 This relates to a project at 7009 Greenwood Avenue North. The
25 project would construct a Neighborhood Commercial 2-40' height

1 limit apartment building that would result in MHA payment of about
2 \$531,000, based on the commercial square footage of the proposed
3 building. And under the MHA performance option, we're required two
4 units.

5 The project is a five story, 35 unit apartment building, with
6 6000 square feet of retail. And 60% of those units will be two or
7 more bedrooms. The building will also, I think, use the
8 Multi-Family Tax Exemption credit, which will require an additional
9 20% of those units to be affordable at 60 to 80% of AMI, in
10 addition to their two required MHA performance units.

11 Great project come out of committee with do pass
12 recommendation. We do have an amendment proposed by Council member
13 Herbold. So with the President's permission, I'll now turn the
14 microphone over to her.

15 MR. HARRELL: Perfect, please do.

16 MS. HERBOLD: Thank you. I move to amend clerk file
17 314356 by substituting version 2 for version 1 of the findings,
18 conclusions and decisions of the Council.

19 MR. JOHNSON: And I'll second that motion.

20 MS. HERBOLD: Thank you. The amendment before you relates
21 to requirements for buffers between zones. And there's -- within
22 the development site for this particular development, there is a --
23 both a single family parcel and a multi-family parcel. And the
24 Appellants had argued that there is required to be a buffer between
25 the two parcels.

1 I originally had proposed a setback to fulfill this
2 requirement. But instead, we talked at the committee table about
3 the fact that the Hearing Examiner sited the area in the southern
4 most portion of the single family zone as the open space physical
5 barrier between the two zones that would fulfill the requirements
6 under SMC 23.34.008.

7 So what this amendment does is it basically puts what the
8 Hearing Examiner identified as the required buffer into the
9 Property Use and Development Agreement.

10 The second part of the amendment changes -- or adds a recital
11 related to the issue of development site. Again, this is two
12 parcels of property that is being considered as a single
13 development site. And one of the issues raised by the Appellants
14 is that we don't really have a definition of what a development
15 site is. And so this puts a -- sort of puts a pin in this issue
16 and establishes a Council intent to take up this issue of defining
17 a development site in the future.

18 MR. HARRELL: Very good. Thank you, Council member
19 Herbold. We just have the amendment right now. We'll vote on
20 this. Any comments on just the amendment piece? So was it
21 seconded? Did I get a second?

22 MR. JOHNSON: Yes.

23 MR. HARRELL: So it's been moved and seconded Council
24 member Herbold's amendment, basically substituted version 2 for
25

1 version 1. Any other questions on that? All those in favor of the
2 amendment please vote aye.

3 MR. JOHNSON: Aye.

4 MR. HARRELL: Aye. Opposed? The ayes have it. Is there
5 anything more to say about the clerk file?

6 MR. JOHNSON: I'd move adoption.

7 MR. HARRELL: We're ready?

8 MR. JOHNSON: Call the role.

9 MR. HARRELL: Okay. So those in favor of granting the
10 Application as amended and conditioned, vote aye. Aye.

11 MR. JOHNSON: Aye.

12 MR. HARRELL: Those opposed vote no. The motion carries.
13 The application is granted as conditioned, and Chair will sign the
14 findings, decision and conclusions of the City Council. The next
15 agenda item is 14. Council member Johnson.

16 MR. JOHNSON: And our clerk's already read this into the
17 record, but it does require a motion. So like I usually do, I'll
18 move to amend Council Bill 119323, Exhibit C, by substituting the
19 executed Property Use and Development Agreement for the unexecuted
20 Property --

21 MALE VOICE: Second.

22 MR. JOHNSON: -- Use and Development Agreement.

23 MR. HARRELL: Been moved and seconded to make the
24 amendment as described by Council member Johnson. All those in
25 favor of that amendment, vote aye.

1 MULTIPLE VOICES: Aye.

2 MR. HARRELL: Aye. Opposed? The ayes have it. Anything
3 further to say, Council member Johnson?

4 MR. JOHNSON: No, sir.

5 MR. HARRELL: Okay. Please call the roll on -- Council
6 member Herbold has -- will amend Council Bill 119323 as well, by
7 adding six new recitals after the Bill title.

8 MS. HERBOLD: Six new recitals?

9 FEMALE VOICE: Yeah.

10 MR. JOHNSON: I look to my colleague to see whether or not
11 she wants to bring forward that amendment.

12 MS. HERBOLD: I am at a loss. What are the six new
13 recitals? Oh, are these -- these are the new recitals that Ketil
14 sent out this morning which is why I am --

15 MR. JOHNSON: Asking to suspend.

16 MS. HERBOLD: -- asking to suspend the rule. So yes, I
17 will move to amend Council Bill 119323 to include recitals
18 affirming the Hearing Examiner's recommendation, reciting that the
19 contract rezone approval has no precedential effect, and
20 establishes the Council's intent to take up policy issues related
21 to designation of development sites.

22 MR. HARRELL: And is there a second?

23 MR. JOHNSON: Second.

24 MR. HARRELL: And just to be clear, I did suspend the
25 rules on this to allow -- it wasn't needed. It was not needed.

1 Okay. We have the amendment here with the six recitals. All those
2 in favor of the amendment, please vote aye.

3 MULTIPLE VOICES: Aye.

4 MR. HARRELL: Aye. Opposed? The ayes have it. That is
5 amended. So --

6 MR. JOHNSON: I still have nothing to add.

7 MR. HARRELL: Okay. So other than that, so I think we're
8 ready to call for the -- please call the roll on the passage of the
9 amended Bill.

10 CLERK: Johnson.

11 MR. JOHNSON: Aye.

12 CLERK: Mosqueda.

13 MS. MOSQUEDA: Aye.

14 CLERK: O'Brien.

15 MR. O'BRIEN: Aye.

16 CLERK: Sawant.

17 MS. SAWANT: Aye.

18 CLERK: Bagshaw.

19 MS. BAGSHAW: Aye.

20 CLERK: Gonzalez.

21 MS. CONZALEZ: Aye.

22 CLERK: Herbold.

23 MS. HERBOLD: Aye.

24 CLERK: President Harrell.

25 MR. HARRELL: Aye.

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CLERK: Eight in favor, none opposed.

MR. HARRELL: The Bill passed and will sign it. I believe that takes us through all of our agenda items for the afternoon.

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CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

Sheri K Escalante
Sheri K. Escalante, Transcriber

DATED: November 1, 2018