SEATTLE CITY COUNCIL

Land Use Committee

Agenda

Friday, October 20, 2023

9:30 AM

Special Meeting

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Dan Strauss, Chair
Tammy J. Morales, Vice-Chair
Teresa Mosqueda, Member
Sara Nelson, Member
Alex Pedersen, Member

Chair Info: 206-684-8806; Dan.Strauss@seattle.gov

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Special Meeting

Meeting Location:
Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:
https://www.seattle.gov/council/committees/land-use

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at http://www.seattle.gov/council/committees/public-comment. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Pursuant to Council Rule VI.10., this Committee Meeting will broadcast members of the public in Council Chambers during the Public Comment period.

Submit written comments to Councilmember Strauss at Dan.Strauss@seattle.gov

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. CF 314513 **Application of Andrew Kluess to rezone a parcel of land located at 1000 NE Northgate Way from Neighborhood Commercial 3 with a 55-foot height limit and Mandatory Housing Affordability suffix (NC3-55' (M)) to a Neighborhood Commercial 3 with a 65-foot height limit and Mandatory Housing Affordability suffix (NC3-65' (M1)) (Project No. 3039050-LU; Type IV).**

Attachments:
- Rezone Application
- 2023 0824 CF-314513 Hearing Examiner Recommendation
- 3039050-LU SDCI Decision
- CF 314513 - Hearing Exhibit List
- HE Exhibit 9b Original MUP Public Comments
- HE Exhibit 10b Revised MUP Public Comments
- HE Exhibit 24 SEPA Checklist
- HE Exhibit 1 - Rezone Presentation

Supporting Documents:
- Presentation (10/20/23)
- Central Staff Memo (10/20/23)

Briefing, Discussion, and Possible Vote (20 minutes)

Presenter: Lish Whitson, Council Central Staff

2. CF 314474 **Application of Acer House, LLC for a contract rezone of a 19,343 square foot site located at 701 23rd Avenue from Neighborhood Commercial 1-40 with an MHA suffix (NC1-40 (M)) and partially with an MHA 2 suffix (NC1-40 (M2)) to Neighborhood Commercial 1-55 (NC1-55 (M) and NC1-55 (M2)) (Project No. 3037717-EG; Type IV).**

Attachments: Rezone Material - 307717-EG
Rezone Material - 3037185-LU

Supporting Documents: Presentation (10/20/23)
Central Staff Memo (10/20/23)

Briefing, Discussion, and Possible Vote (20 minutes)

Presenter: Ketil Freeman, Council Central Staff

3. **Audit on the Construction Permitting Process**

Supporting Documents: Permitting Audit Report (10/20/23)
Presentation (10/20/23)

Briefing and Discussion (40 minutes)

Presenter: David G. Jones, Office of City Auditor

E. Adjournment

Legislation Text

File #: CF 314513, **Version:** 1

Application of Andrew Kluess to rezone a parcel of land located at 1000 NE Northgate Way from Neighborhood Commercial 3 with a 55-foot height limit and Mandatory Housing Affordability suffix (NC3-55’ (M)) to a Neighborhood Commercial 3 with a 65-foot height limit and Mandatory Housing Affordability suffix (NC3-65’ (M1)) (Project No. 3039050-LU; Type IV).

The Rezone Application material is provided as an attachment.

Rezone Application Submittal Information
Project Nos. 3039547-EG, 3039050-LU

I. General Matters (Application Questions 1-15). 1

II. Rezone Criteria Compliance Narratives (Application Question 16). 5
- 16.1 Criteria at SMC 23.34.004 - Contract Rezones. 5
- 16.2 Criteria at SMC 23.34.007 - Rezone Evaluation 6
- 16.3 Criteria at SMC 23.34.008 - General Rezone Criteria 7
- 16.4 Criteria at SMC 23.34.009 - Height Limits of the Proposed Rezone 22
- 16.5 Criteria at SMC 23.34.011 - Neighborhood Commercial 3 (NC3) zones 25

III. Appendices. 28
- A. Vicinity Zoning Maps. 28
- B. Continuation of Comprehensive Plan Consistency Table. 30
- C. Massing and Zoning Envelope Studies. 35

I. General Matters (Application Questions 1-15).

1. Project numbers

3039547-EG; 3039050-LU; 007468-21PA

2. Subject property address

1000 and 1020 NE Northgate Way, Seattle, Washington 98125.

APNs 5724500819 and 5724500825 (together, the "***Property***").

3. Existing and proposed zoning classification

Existing: NC3-55 (M).

Proposed: NC3-65 (M1).

According to the Seattle Department of Construction and Inspections' GIS database, the Project site is currently zoned Neighborhood Commercial 3, with a 55-foot height limit and a mandatory housing affordability designation, or "NC3-55 (M)"

The site is located within both the Northgate Urban Center and the Northgate Overlay District described in Ch 23.71 SMC. It is currently classified as a "Medium Area" for purposes of Seattle's mandatory housing affordability (MHA) program, and is subject to the Northgate neighborhood design guidelines. It has also been classified as within a Design Review Equity Area. *Id.*

The proposed rezone would increase the applicable height limit by 10 feet to 65 feet and modify associated development standards, but would not otherwise change underlying zoning.

4. Approximate size of property to be rezoned

40,285 square feet.

5. Environmentally Critical Area (ECA) information

City records indicate that a portion of the Property (on the far easterly side of 1020 NE Northgate Way) may be encumbered by a wetland buffer pertaining to a nearby but off-property bioretention pond. The bioretention pond is man-made and was constructed with adjacent development to address stormwater systems. It is not a wetland that is subject to the City's ECA regulations, nor is it functionally connected with the Property or the proposed development.

No other critical areas are known to be present on or within 25 feet of the Property. However, any final proposal to redevelop the Property will comply with all applicable ECA regulations.

6. Applicant information

a. Owner's Representative

GMD Development, LLC
Attn: Emily Thompson
520 Pike St, Suite 1010
Seattle, WA 98101
(206) 745-3698

b. Architect

Caron Architecture
Attn: Andrew Kluess, Associate Principal
801 Blanchard St, Suite 200
Seattle, WA 98121
andrewkluess@caronarchitecture.com
206-367-1382

c. Land Use Attorney

Hillis Clark Martin & Peterson P.S.
Attn: Abigail DeWeese and Josh Friedmann
999 3rd Ave, Suite 4600
Seattle, WA 98104
abigail.deweese@hcmp.com and josh.friedmann@hcmp.com

7. Property legal description

Assigned Assessor Parcel Numbers are 5725500819 and 5724500825, the abbreviated legal description is a portion of Lots 1 through 12, inclusive, Block 5, Munson & Custer's Addition to Green Lake Circle, Volume 5 of Plats, Page 88, records of King County, Washington. The complete property legal description is included in the associated Master Use Permit materials.

8. Present uses of property

The site contains two single-story commercial structures with extensive impermeable surface parking areas oriented toward single-passenger vehicles. One of the structures was most recently occupied by a regional chain restaurant (Patty's Eggnest) and the other was most recently occupied by a Jiffy Lube. The Project will not result in the displacement of any residential tenants, and no Tenant Relocation License is required.

9. What structures will be demolished or removed?

All existing structures would be demolished and removed.

10. What are planned uses for the property if a rezone is approved?

The Project proposes a seven-story mixed-use multifamily residential structure containing approximately 184 affordable units, together with on-site below-grade parking. The Project would also include residential amenity spaces, neighborhood open spaces, and ground-level commercial space that will be specifically configured for compatibility with potential daycare tenants.

11. Does a specific development proposal accompany the rezone application?

Yes. Please see project description above and associated record nos. 3039050-LU and 3039547-EG for further information.

12. Reason for the requested zoning classification and / or new use.

The rezone would increase the height and development limit on the site to allow for one additional story of transit-oriented affordable multifamily development on a currently underutilized site. Pursuant to Table A for SMC 23.47A.013, this height increase would be paired with an increase in maximum floor area ratio ("***FAR***") from 3.75 to 4.5.

13. Anticipated benefits the proposal will provide.

As augmented by the rezone, the Project will provide numerous benefits to Northgate and the greater Seattle area. Most notably, the Project will contribute positively to the City's supply of modern, affordable and transit oriented housing, by providing 188 new income-restricted units that will deliver affordable housing beyond what is required by the City's MHA program. It will also provide improved stormwater management, increased planting, and new open spaces on a site that is currently underutilized and generally configured for access and use by single-passenger vehicles.

Several other aspects of the surrounding neighborhood will complement and be complemented by the modern, affordable and transit-oriented multifamily housing that the Project will provide. Within four-tenths of a mile from the site, key neighborhood features include Victory Creek Park, Hubbard Homestead Park, Seattle Public Schools' Hazel Wolf K-8 School, Northgate Public Library, and Northgate Community Center.

Redevelopment of the site will also activate the streetscape along NE Northgate Way and Roosevelt Way NE, through street-oriented transparent or semi-transparent facades and courtyard open space. The Project also proposes a public pedestrian walkway along on the south side of the building, which will enhance

pedestrian connections through the site and to the QFC grocery store to the north, thereby further improving character of the surrounding neighborhood for pedestrians.

14. Summary of potential negative impacts of the proposal on the surrounding area.

Almost all surrounding areas are occupied by non-sensitive commercial uses, such as a TJ Maxx; a QFC and associated parking areas to the north; a Walgreens and a vacant lot to the west; and an ARCO gas station to the south.

Through the Early Design Guidance ("***EDG***") process and independently, height, bulk and scale transitions have been carefully considered with respect to several multifamily homes that are located across NE Northgate Way to the site's southeast, in order to mitigate any potential negative impacts of the proposal on these structures, which are located on parcels zoned lowrise multifamily (LR2 (M)). Fortunately, the NE Northgate Way arterial right-of way provides a 73-foot to 76-foot-wide area of transition between the Property and these lowrise multifamily properties. Furthermore, these properties are already trending toward denser development patterns that complement the Project's affordable housing proposal. One of the four original duplex-sized parcels has already been converted into a townhouse plat for eight units (see 10839-10849 11th Ave NE; 1035-1037 NE Northgate Way; 3032196-LU), and another appears to be occupied by a daycare center use (1019 NE Northgate Way). The remaining two duplex lots are under common ownership with property sales in January 2021, indicating they may be development sites in the near future.

The City of Seattle's Victory Creek Park is located approximately 120 feet away from the Property, due east along NE Northgate Way. Due to this separation and intervening uses (which includes a bioretention pond and a vehicle ingress/egress to QFC's parking lot) the proposal is not anticipated to have any negative impact on Victory Creek Park. However, the Proposal would complement Victory Creek Park by bringing a new population of individual and family park users to its immediate proximity, and in turn the park would provide a valuable recreation amenity to the affordable units the Project will provide.

To ensure appropriate transitions and prevent negative impacts, the applicant's proposed Project would thoughtfully embrace corners and streetscapes, and would provide neighborhood open spaces and through-block connections facing the LR-2 (M) zoning across NE Northgate way while providing parking and utility access on the other side, facing QFC. The through-block connection would be located on the Property boundary that falls closest to Victory Creek Park, and the daycare-compatible commercial space (to include possible pick-up/drop-off and playground areas) will face away from the LR-2 (M) properties.

Landscaping in the proposed open space facing NE Northgate Way will further soften the transition. Proposed street trees placed 35 feet on center along the street facades will also provide screening and another scale datum. Further detail on these zone transition mitigation measures are provided in the EDG materials submitted under SDCI Permit No. 3039547-EG.

The applicant has also considered potential shadow impacts on neighboring parcels that may be caused by the Project and associated street trees. Shadow studies indicate that shadowing will primarily affect the windowless side façade of the QFC as well as the QFC's expansive surface parking lot, with some lesser effects on the vacant lot and the TJ Maxx that fall west and northwest of the Site across Roosevelt Way NE. In addition, the Project and associated street trees would cast some shadows on a portion Victory Creek Park during afternoons in the wintertime, but such shadows would not be appreciably different with the rezoned height compared to the current height limit. Some shadows will also be cast on the Roosevelt Way NE right-of-way during winter morning hours. No shadows would be cast on the LR-2 (M) properties, which are south of the Project.

Importantly, the additional shadowing anticipated to be created by the height increase is not expected to be significant. Shadow studies are provided in Figure 6, below.

Other potential impacts like increased traffic, noise, and construction impacts are considerations that are anticipated to be mitigated through compliance with applicable City codes and regulations.

The closest parcels zoned neighborhood residential (NR) or residential small lot (RSL) are respectively located approximately 150 and 187 feet from the Property and are buffered by other zones and uses. No negative impacts on these parcels are anticipated.

15. List of other permits or approvals being requested in conjunction with the proposal:

The Master Use Permit for the Project will include Design Review in addition to the rezone approval contemplated by this application. The Project will also require a demolition permit, street improvement permit, a building permit and other minor permits.

II. Rezone Criteria Compliance Narratives (Application Question 16).

16. Applicant's Summary of Rezone Analysis

All of the applicable rezone criteria suggest the proposed height rezone is appropriate, and several of the applicable criteria weigh very strongly in favor of the rezone's approval. These criteria include SMC 23.34.008.C (related to zoning pattern), SMC 23.34.008.E.2 (related to physical buffers), and SMC 23.34.008.G (related to changed circumstances).

The Project's thoughtful design response also ensures the building will fit into its surroundings and suggests the height rezone is appropriate. The functional bulk and scale proposed is generally compatible with existing and proposed development in the vicinity of the Project, including the QFC, TJ Maxx, Walgreens, and the Caribbean House apartments located immediately south of the ARCO gas station that is across the street from the Property.

The Project would also be compatible in style and scale with other proposed and ongoing development projects in the immediate vicinity. For example, residential density has been dramatically increased through development of two new multifamily residential complexes at Roosevelt Way NE and NE 112th, as well as a complex of townhouses at NE Northgate Way and 11th Ave NE. The Project will be well buffered from less intensive and more sensitive uses in the broader vicinity.

Code language is provided in ***bold italics*** throughout this Section.

16.1 Criteria at SMC 23.34.004 - Contract Rezones.

A. Property Use and Development Agreement. The Council may approve a map amendment subject to the execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions imposed by the PUDA shall be directly related to the impacts that may be expected to result from the rezone.

The subject application is for a contract rezone. If the rezone is approved, then a PUDA will be executed and recorded by the property owner as a condition of approval.

B. Notwithstanding any contrary provision of subsection 23.34.004.A, the Council may approve a map amendment subject to execution, delivery, and recording of a property use and

development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions applying the provisions of Chapter 23.58B or Chapter 23.58C to the property. The Director shall by rule establish payment and performance amounts for purposes of subsections 23.58C.040.A and 23.58C.050.A that shall apply to a contract rezone until Chapter 23.58C is amended to provide such payment and performance amounts for the zone designation resulting from a contract rezone.

SMC Chapter 23.58B specifies a framework for affordable housing requirements associated with new commercial floor area. Those requirements apply to Land Use Code and Land Use Map amendments that increase commercial development capacity. Similarly, SMC Chapter 23.58C specifies a framework for affordable housing requirements associated with new residential development. Those requirements also apply to Land Use Code and Land Use Map amendments that increase residential development capacity. The City's affordable housing requirements for new residential and commercial capacity are called its "Mandatory Housing Affordability" program or "MHA" program.

Where a contract rezone results in increases to commercial and residential development capacity, then the MHA program requirements in SMC Chapter 23.58B and SMC Chapter 23.58C, respectively, are applicable through the terms of a contract rezone in accordance with Section 23.34.004.B. A PUDA will be executed and recorded as a condition of the contract rezone and shall require that development of the rezoned property shall be subject to applicable requirements of the MHA program. The PUDA shall specify the payment and performance calculation amounts for purposes of applying both Chapters in this case. Here, the Project is an affordable housing project that goes beyond the requirements of the MHA program as it will be applied in the PUDA.

The actual payment or performance amounts will be contained in the final PUDA.

C. A contract rezone shall be conditioned on performance or compliance with the terms and conditions of the PUDA. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The PUDA shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.

A PUDA will be executed and recorded as a condition of the contract rezone.

D. Waiver of Certain Requirements. The ordinance accepting the PUDA may waive specific bulk or off-street parking and loading requirements if the Council determines that the waivers are necessary under the agreement to achieve a better development than would otherwise result from the application of regulations of the zone. No waiver of requirements shall be granted that would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

The applicant does not seek a waiver from bulk or off-street parking and loading requirements. Any departures from Code standards will be addressed through the Design Review process. The Project intends to seek a departure from upper-level façade setback requirements in an identified location as shown in the EDG package and MUP plans.

16.2 Criteria at SMC 23.34.007 - Rezone Evaluation

A. The provisions of this chapter apply to all rezones except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets those provisions. In addition, the zone function statements, which describe the intended function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.

B. No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.

No provision of the rezone criteria establishes a particular requirement or sole criterion that must be met for rezone approval. Thus, the various provisions are to be weighed and balanced together to determine the appropriate zone and height designation for the site. All applicable rezone criteria are considered in this application to allow for a balanced evaluation.

C. Compliance with the provisions of this Chapter 23.34 shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Environment Policies shall be used in shoreline environment redesignations as provided in subsection 23.60A.042.C.

The proposed rezone is not a shoreline environment redesignation, so the Comprehensive Plan Shoreline Policies are not applicable or used in this analysis.

To show consistency with the City's Comprehensive Plan, all applicable sections of SMC Chapter 23.34 are addressed in this rezone application. Comprehensive Plan policies and goals are not required to be separately reviewed for non-shoreline rezones. However, additional information about consistency with Comprehensive Plan policies is provided at Table 1 below, because the Plan's policies that apply specifically to the Northgate Urban Center are consistent, compatible and complementary with the Project and the requested rezone.

D. Provisions of this chapter that pertain to areas inside of urban centers or villages shall be effective only when a boundary for the subject center or village has been established in the Comprehensive Plan. Provisions of this chapter that pertain to areas outside of urban villages or outside of urban centers shall apply to all areas that are not within an adopted urban village or urban center boundary.

The site is located within the Northgate Urban Center established in the Comprehensive Plan. The provisions that pertain to areas inside urban centers apply to this rezone application.

E. The procedures and criteria for shoreline environment redesignations are located in Sections 23.60A.042, 23.60A.060 and 23.60A.220.

The subject rezone is not a redesignation of a shoreline environment, so this application is not subject to the identified code sections.

F. Mapping errors due to cartographic or clerical mistakes may be corrected through process required for Type V Council land use decisions in SMC Chapter 23.76 and do not require the evaluation contemplated by the provisions of this chapter.

The subject rezone is not a correction of a mapping error.

16.3 Criteria at SMC 23.34.008 - General Rezone Criteria

A. To be approved a rezone shall meet the following standards:

1. In urban centers and urban villages the zoned capacity for the center or village taken as a whole shall be no less than 125 percent of the growth estimates adopted in the Comprehensive Plan for that center or village.

2. For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Urban Village Element of the Comprehensive Plan.

The site is located in the Northgate Urban Center. The City's 2035 Comprehensive Plan anticipates the creation of 3,000 additional housing units within this Urban Center by 2035. *See* Seattle Comprehensive Plan at Growth Strategy Figure 2, p. 29.

The proposed rezone does not reduce capacity below 125% of the Comprehensive Plan growth target. Instead, it would increase the zoned capacity of this Urban Center by 0.75 FAR on this site (30,213 square feet) and catalyze residential development. Therefore, the proposed rezone would *advance* the City's ability to meet the population growth target and densities in the Plan.

B. Match Between Zone Criteria and Area Characteristics. The most appropriate zone designation shall be that 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.

No change to the Neighborhood Commercial 3 (NC3) zone designation is proposed; thus, the criteria for designation of commercial zones in SMC 23.34.072 are not applicable. The focus of this rezone application is therefore on whether increased height is appropriate.

The NC3 functional and locational criteria in SMC 23.34.078 continue to match the characteristics of the area better than other zoning designations.

Specifically, this location functions (and the Project will function) "to support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community," and incorporate businesses and "residences that are compatible with the retail character of the area," and"[i]ntense pedestrian activity" with "[t]ransit [a]s an important means of access." SMC 23.34.078.A.1-.A.5.

The NC3 zone also continues to be locationally appropriate because the Property is generally characterized as part of the "primary business district in an urban center," is served directly by two and indirectly by a third principal arterial is "[s]eparated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas," and boasts "[e]xcellent transit service." SMC 23.34.078.B.1-.B.4

C. Zoning History and Precedential Effect. Previous and potential zoning changes both in and around the area proposed for rezone shall be examined.

Zoning maps dating from 1958 indicate primarily commercial zoning at the intersection of Roosevelt Way NE and Northgate Way NE (then known as E. 110th Street), surrounded by multifamily zoning beyond. This pattern can be seen on the block face containing the Property, with a pocket of General Commercial (CG) at the westerly corner and Duplex Residence Medium Density (RD-7200) extending to the east to 12th Avenue NE.

The 1973 Official Zoning Map indicates a similar zoning pattern, with nearby areas of the CG zone expanding eastward.

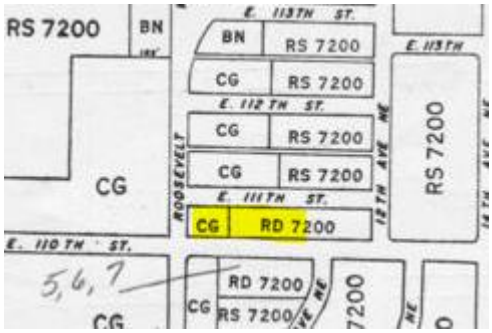

Figure 1: Excerpt from 1958 Zoning Map (Property Highlighted)

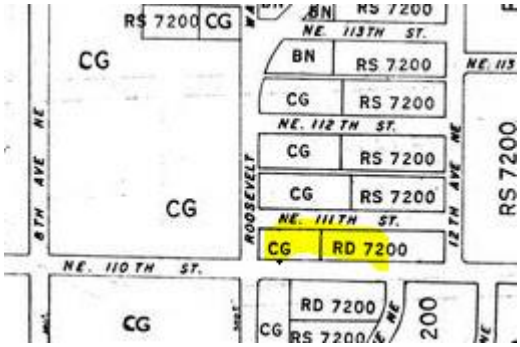

Figure 2: Excerpt from 1973 Zoning Map (Property Highlighted)

In 1982, as part of the City's Multifamily Code Update (Ordinance 110570), several neighborhood parcels were redesignated from high- or moderate-density residential to low-density residential. Later, in 1986, as part of the City's Commercial Zone Update, several neighborhood parcels were upzoned, to include the Property, which was upzoned to C1-40. Other parcels in the neighborhood bordering NE Northgate Way and 5th Avenue NE were also upzoned to more intense commercial designations (BC and CG to C1-65).

Then, in 1993, as part of the Northgate Area rezone (Ordinance 116794), several of the same parcels were downzoned, including the Property, which was then designated NC3-40.

At that time, the development site immediately north of the Property (now QFC) and east of the Property (now a bioretention pond) was consolidated and redesignated from C1-40, SF 7200 and L2 to NC3-40 to facilitate construction of the grocery store, associated parking and related stormwater infrastructure.

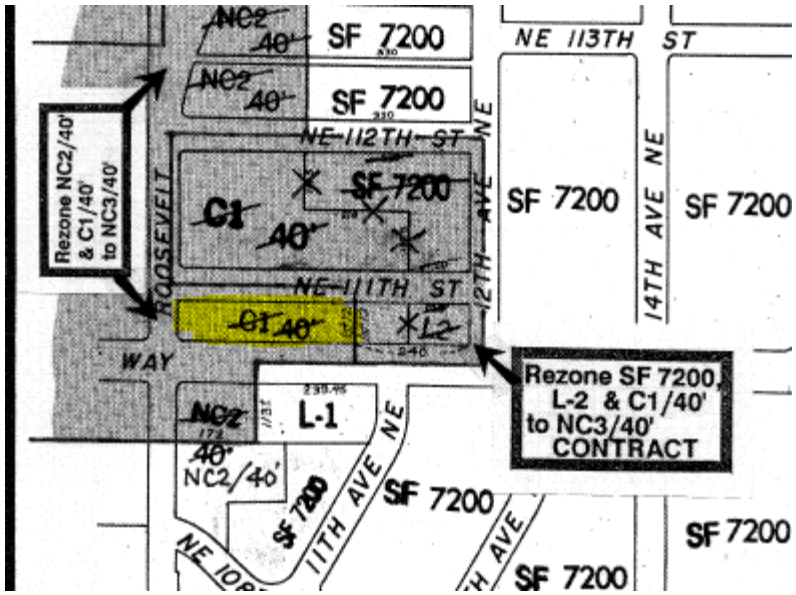

Figure 3: Excerpt from 1993 Rezone Map (Property Highlighted)

Since the 1993 rezone, the Property and its larger vicinity have followed City policy by showing a clear trend toward taller and denser zoning, with many height limits approaching the 65' that is proposed in this application. Specifically:

- In 1999, a notable contract rezone was enacted with respect to a development site several blocks west of the Property (at 3rd Avenue NE and NE Northgate Way), upzoning a portion of that site from MR to NC3-65 to facilitate construction of a Target store (Ordinance 119621, CF 302803, MUP No. 9802979).

- In 2012, the City enacted a contract rezone for two parcels at 11200 1st Avenue NE, rezoning that development site from MR to NC3-85, allowing 85-ft. heights for future mixed-use, commercial, and multi-family residential development (Ordinance 3006101, CF 311240, MUP No. 3006101).

- In 2013, the City enacted a contract rezone on property at 525 NE Northgate Way, upzoning that development site from NC3-65 to NC3-85 to allow a 7-story mixed-use residential building (Ordinance 124272, CF 312357, MUP No. 3014776).

- In 2016, another contract rezone was enacted southwest of the Property, upzoning the development site at 10711 8th Avenue NE from NC3-40 to NC3-65, thereby allowing a new 65-foot height limit to facilitate construction of two multifamily developments (Ordinance 125035, CF 314287, MUP Nos. 3018442-LU, 3020189-LU).

- In 2019, as part of the Citywide Mandatory Housing Affordability (MHA) legislation (Ordinance 125791), the Property and surrounding parcels were upzoned from NC3-40 to NC3-55. This zoning and height limit remains in effect on the Property today.

- Most recently, in 2022 a contract rezone was enacted on two parcels immediately south of the Property, upzoning the development site at 10735 Roosevelt Way NE from LR3 (M) to MR (M1), which enacts an 80' height limit. (Ordinance 126540, CF 314441, SDCI Project 3033517-LU).

D. Neighborhood Plans.

1. For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.

This criterion does not apply, because the Northgate Neighborhood Plan enacted in 1993 ("1993 Plan") predated January 1, 1995. However, the 1993 Plan supports this proposal in numerous ways, both directly and indirectly, as further discussed in the next paragraph.

2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.

Several aspects of the 1993 Plan weigh strongly in favor of the Project and the proposed rezone. These include:

- At Policy 2, Implementation Guideline 2.1, subsection A.1, the 1993 Plan wrote that the Property[1] is a "particular location [that] provides a unique opportunity to enhance the boundary between the Northgate core and the surrounding residential neighborhood." *Id.*

- Policy 4 simply states that "additional multifamily housing opportunities of all income levels shall be promoted to the extent that a compatible scale and intensity of development can be maintained with single-family areas." *Id.* The Project and its associated height increase will promote multifamily housing for all income levels, by providing dense, livable affordable housing where none has previously existed. Thanks to the buffering described at Section E below, compatible scale and intensity will be maintained by the Project. *Id.*

- At Policy 6, Implementation Guideline 6.3 provided that this stretch of Roosevelt Way NE would become a "Key Bicycle Street." The frontage improvements proposed as part of the Project would complement this aspect of the City's 1993 vision.

- At Policy 7, Implementation Guideline 7.6, the 1993 Plan dictated that NE Northgate Way between Lake City Way NE and Roosevelt Way NE (i.e., including the Property's frontage) would be redesignated a "minor transit street [to] allow Metro service to significantly improve transit service [to] make transit a more attractive mode for shorter, northend trips." *Id.* The Project proposes to supply a dense, transit-oriented affordable housing site to compliment this status.

- At Policy 8, Implementation Guideline 8.2, the 1993 Plan specifically named "[a]ll commercially zoned lots on both sides of NE Northgate Way between 3rd Avenue NE and 11th Avenue NE" among segments then described as designated "Pedestrian Streets," and therefore "intended to serve as major links in the pedestrian network of the core." *Id.* However, this implementation tactic of the 1993 Plan (as implemented through associated Code provisions at SMC 23.71.008) has not yet been realized for this frontage, because no substantial development has yet occurred. The Project will finally bring such substantial redevelopment, in full compliance with all applicable standards. The additional height will not only catalyze the Project (and its many pedestrian-friendly features) but will also provide an additional story of residences to contribute to a strong base of pedestrians and "eyes on the street." *See generally* SMC 23.71.008.

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[1] This section of the 1993 plan describes "[t]he area . . . bounded on the north by NE 112th Street, on the east by 12th Avenue NE, on the south by NE Northgate Way, and on the west by Roosevelt Way NE." *Id.*

- At Policy 8, Implementation Guideline 8.3 subsection D, the 1993 Plan dictated that "[s]afe, convenient pedestrian crossings shall be a priority at . . . Roosevelt Way NE between NE 111th Street and NE 112th Street." *Id.* The Project will compliment this goal by replacing a complex, vehicle-oriented restaurant and Jiffy Lube complex with a modern affordable housing site that incorporates up-to-date pedestrian safety measures.

- At Policy 8, Implementation Standard 8.6, the 1993 Plan stated that Roosevelt Way NE . . . shall be [among those streets] designated as Special Landscaped Arterials," to be "enhanced with special landscaping treatment and pedestrian facilities to improve the balance between the arterial's role in carrying high traffic volumes and large numbers of pedestrians." *Id.* However, this implementation tactic of the 1993 Plan (as implemented through associated Code provisions at SMC 23.71.012) has not yet been realized for this frontage, because no substantial development has yet occurred. The Project will finally bring such substantial redevelopment, in full compliance with all applicable standards. The additional height will not only catalyze the Project (and its many pedestrian-friendly features) but will also provide an additional story of residences to contribute to a strong base of pedestrians and "eyes on the street." *See generally* SMC 23.71.008.

3. Where a neighborhood plan adopted or amended by the City Council after January 1, 1995 establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.

This third criterion does not apply to the 1993 Plan, which predated January 1, 1995, does not establish specific policies expressly adopted to guide future rezones, and does provide for rezone of this particular site, as summarized in the following section.

4. If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.

With respect to the 1993 Plan, this factor was satisfied. The 1993 plan at Policy 2 provided generally that the Northgate subarea's existing zoning "shall be revised . . . to promote a land use pattern characterized by a concentrated core of intensive commercial and high-density multifamily zones surrounded primarily by single-family residential areas."

The 1993 Plan addressed this block specifically at subpart 2.1.A.1, stating that "this particular location provides a unique opportunity to enhance the boundary between the Northgate core and the surrounding residential neighborhood due to the stream which runs along the eastern edge of the site." That first rezone was enacted through Ordinance 116794 and an accompanying PUDA, as required by this criterion. However, that zoning has been subsequently superseded by the City's 2019 MHA upzone.

E. Zoning Principles. The following zoning principles shall be considered:

1. The impact of more intensive zones on less intensive zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.

The proposed rezone does not change the existing zoning designation, other than a change to allowed height. Thus, no new impact of commercial zones on other zones is implicated. To any extent that the one-story increase in height represents increased development intensity, the location of the Property, the proposed attributes of the Project, area topography and nearby development patterns effectively minimize or eliminate aesthetic impacts.

Gradual transitions between height limits are generally provided by the 55' height limits that prevail in expansive areas on almost all sides of the Property. (Ref. vicinity zoning map, Appendix A, below). These gradual transitions are complemented and augmented by the buffers discussed in the following section.

2. Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:

a. Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;

b. Freeways, expressways, other major traffic arterials, and railroad tracks;

c. Distinct change in street layout and block orientation;

d. Open space and greenspaces.

The Property benefits from several physical buffers that provide an effective separation, transition or buffer between different uses and intensities. Please see Figure 4.

To the Property's northeast, east and southeast, a bioretention pond, Victory Creek Park, and the larger critical areas and topographic features associated with Thornton Creek provide a curved buffer of natural features and treed spaces that generally buffer the Property and its immediate vicinity from less densely populated neighborhoods located further east.

To the Property's south and west, four-lane major traffic arterials (Roosevelt Way NE and NE Northgate Way) and their associated sidewalks and street trees provide substantial buffers. However, such buffers probably are not even necessary considering the multifamily, high-intensity and generally commercial uses that dominate areas east and south of the site.

Figure 4: Project Site highlighted yellow, together with buffering natural features, arterials and QFC complex

Finally, the expansive QFC and associated parking complex to the Property's north provides a distinctly different block orientation that serves as an effective buffer. In fact, the QFC site plan was specifically designed to provide "an excellent transition to the residential neighborhood [located further north], including a substantial landscape buffer along NE 12th Street at the north boundary, [together with the] broad open space along the stream on the eastern boundary." 1993 Plan at 2.1.A.1.

3. Zone Boundaries.

a. In establishing boundaries the following elements shall be considered:

(1) Physical buffers as described in subsection E2 above;

(2) ***Platted lot lines.***

Boundaries of zones would not be modified by the proposed action; only height limits would be changed.

See discussion of physical buffers above. Zone boundaries would continue to follow platted lot lines.

b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.

The rezone proposal does not alter the existing location of commercial and residential zones, and therefore, it is not inconsistent with zone boundary principles.

Please see vicinity zoning maps at *Appendix A* for further information.

2. In general, height limits greater than forty (40) feet should be limited to urban villages. Height limits greater than forty (40) feet may be considered outside of urban villages where higher height limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.

The site is entirely within the Northgate Urban Center, where heights above 40 feet are considered appropriate.

F. Impact Evaluation. The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.

1. Factors to be examined include, but are not limited to, the following:

a. Housing, particularly low-income housing;

The Project being proposed in connection with this rezone is primarily characterized by its positive impact on housing, and particularly on low-income and transit-oriented housing. The Project would provide approximately 184 new affordable and transit-oriented dwelling units, including 31 units that would only be possible as a result of the increased height being requested here. No affordable or market-rate housing is provided on the Property as it exists today. The Project, and the rezone, will provide a clear positive contribution to the City's overall supply of housing generally and affordable housing specifically.

b. Public services;

The new units would be included within City police and fire service areas, but the available service levels are anticipated to be sufficient due to the location in a highly developed urban area. No appreciable negative impacts to public services are anticipated due to the additional housing made possible by the height increase.

c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;

The requested increase in permitted height would allow approximately one story of development above the existing height, but this increase would not change the zoning designation or the types of uses

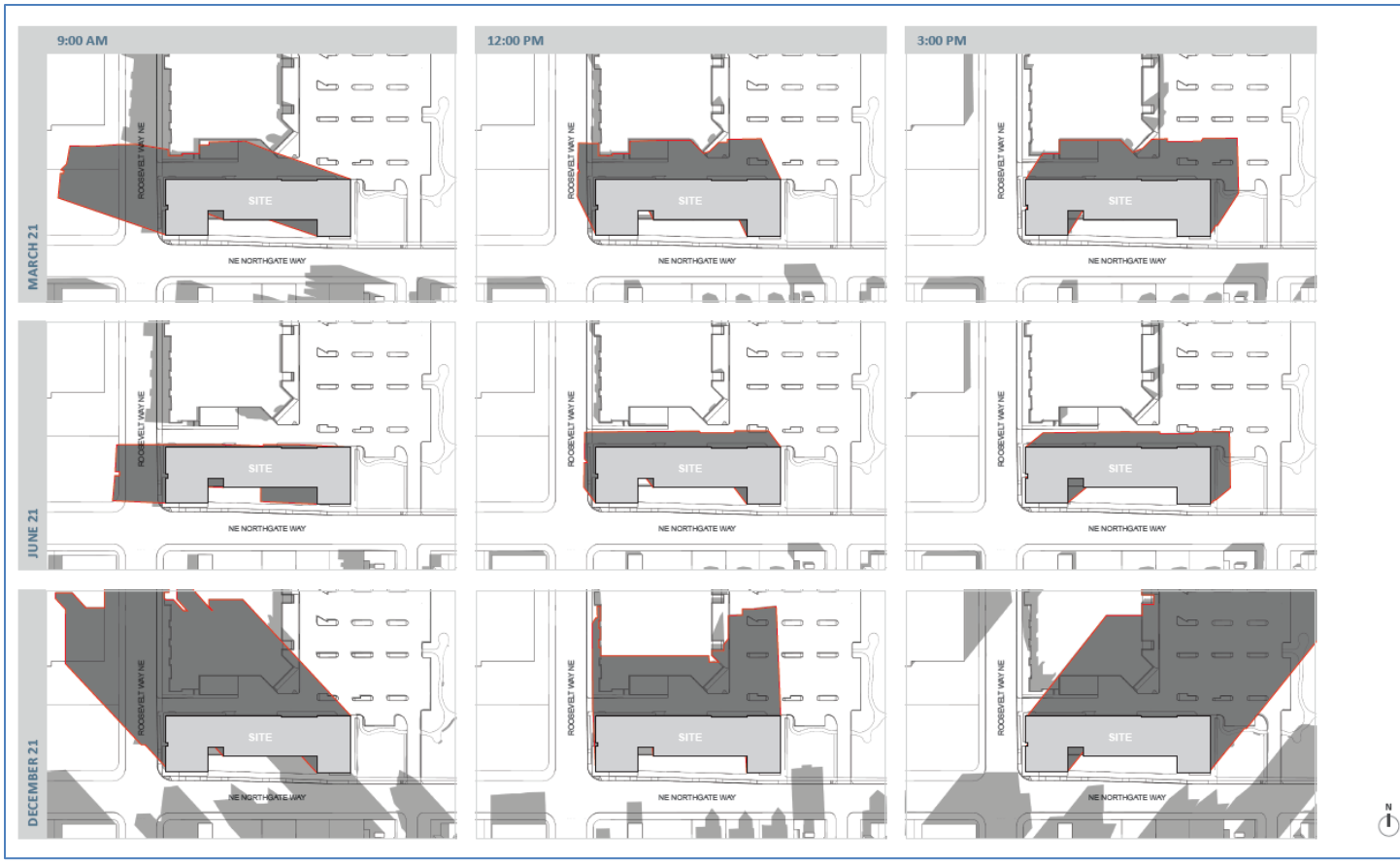
allowed on the property. Therefore, no appreciable impacts to environmental factors are anticipated as a result of the requested height increase.

There will be some minor shading on commercial properties to the north and on the Roosevelt Avenue NE right-of-way due to the height increase, but the shading is not projected to be severe, and has greatest effect on a blank QFC façade that includes no windows. Though some shadows will reach Victory Creek Park in afternoons during the winter, the area that may be shaded is a parking lot and a densely planted area without any accessible any trails or other open spaces capable of public recreation use. Further, the areas of shadowing are not materially different than would occur without the height rezone.

Figure 5: Area of Victory Creek Park that may be shaded during winter afternoons (as viewed from QFC's parking lot)

The following Figure shows the shadow effects of the Project at 3 times each day when shadowing is greatest (9 am, 12 pm, and 4 pm) on the Summer and Winter Solstices, and on the Spring and Fall Equinoxes. The Figure indicates that some shadows will reach the adjacent properties, which is further discussed at Question 14, above.

Figure 6: Shadow Studies



The Project is not expected to create any negative impacts to air quality or odors, to any flora or fauna, or to energy conservation. In fact, it will likely contribute *positively* to air quality, flora and fauna and energy conservation in the larger region, insofar as this infill, transit-oriented multifamily residential development will supply dense housing stock that might otherwise be supplied in suburbs or exurbs. In such locations, new housing development often entails longer commutes and electricity transmission distances (impacting air quality and energy conservation) as well as clearing and grading of natural areas (impacting flora, fauna, and water quality). By contrast, new housing development in this location will utilize newly-created transit infrastructure and shorter transmission distances, and will not require clearing or grading of any unimproved natural areas. Further, the Project will comply with the latest energy code requirements that result in more efficient building systems and less emissions compared to structures constructed under prior codes.

Water quality will be further improved by the redevelopment of an outdated parking site with a site plan that utilizes modern stormwater best practices throughout construction and operation.

Noise and glare impacts for the Property's current zoning have been fully and carefully analyzed though previous Environmental Impact Statements completed by the City, including with the City's 2019 MHA upzone. The additional height being requested is not anticipated to create any measurable marginal change to these items, and Project-specific impacts are also mitigated through the applicable Design Review process.

The additional 31 housing units allowed by virtue of the rezone would contribute positively to the City's housing production goals, and the implementation of and participation in the MHA program will positively contribute to housing affordability and by extension the residential environment.

d. Pedestrian safety;

The Project would increase pedestrian safety along NE Northgate Way and Roosevelt Way NE in several ways. The Project proposes to embrace the corner and streetscape, provide neighborhood open space, articulated entrances and pedestrian connections on NE Northgate Way and Roosevelt Way NE, which will break down the scale of the building and contribute to a pedestrian-friendly environment. Further, appropriate transparency is proposed on all levels of the building facing NE Northgate Way and Roosevelt Way NE. This transparency, together with the many units of housing to be provided by the Project and its increased height, will provide more "eyes on the street." Night lighting of entrances and walkways is also contemplated, which will help ensure nighttime safety. (Lighting will of course be directed downward and away from any neighboring residential uses so as to minimize any light impacts.) The Project will provide all applicable frontage improvements to the extent required by applicable standards and law. And finally, the Project's neighborhood open space and proposed pedestrian connection will likely incorporate elements such as lighting, signage, textured pavement, and other features to ensure pedestrian safety and a welcoming environment around and through the Property.

e. Manufacturing activity;

This criterion does not apply. The Project does not displace or propose manufacturing activity, the Property is not zoned for manufacturing activity, and no manufacturing activity is known to occur in the area.

f. Employment activity;

The Project would displace two existing commercial uses: Jiffy Lube and Patty's Egg Nest, each of which provides some on-site employment opportunities. According to County records, Jiffy Lube provides 3,488 net square feet of commercial space and Patty's Egg Nest provides 3,609 net square feet of commercial space, for a total of 7,097 net square feet of existing non-residential use on the Property. However, such impacts will be offset by new employment opportunities in the commercial or other non-residential space proposed for the ground floor of the Project. At present, the Project is anticipated to provide approximately 6,771 square feet of non-residential space, which is expected to provide employment opportunities. The Project is exploring whether a daycare facility could be located in this space.

To any extent that the new gross square footage of non-residential floor area does not replace jobs displaced by the discontinuance of Jiffy Lube and Patty's Eggnest, that impact will be further offset by the Project's approximately 184 new units of housing. New residents in these units are anticipated to support neighborhood business activity, which in turn will lead to additional job growth in the immediate vicinity of the site.

Importantly, this new affordable housing capacity will also support the acute need for affordable housing that is associated with job growth throughout the City.

g. Character of areas recognized for architectural or historic value;

The Project is not anticipated to have any negative impacts on areas recognized for architectural or historic value. There are no designated Landmark structures or districts in the vicinity.

The Jiffy Lube building was constructed in 1988, and the Patty's Egg Nest building was constructed in 1970, but the buildings are of typical non-residential typology reflective of their specific uses and neither appears to provide any architectural or historic value.

h. Shoreline view, public access and recreation.

No shorelines exist in this area, and the Project does not impact shoreline views, access, or recreation. This criterion does not apply.

2. Service Capacities. Development which can reasonably be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:

As of this writing, Transportation Engineering NorthWest ("TENW") has drafted a scope of work for the traffic impact study to be completed for the Master Use Permit application for this Project. When completed, the traffic impact study will contain detailed information about these service capacity criteria (a) through (d). It will include a comprehensive analysis of traffic and parking impacts of the Project in the context of the Project's transit-oriented location, as well of careful analysis and conclusions regarding Level of Service (LOS) standards for the offsite study intersection of Roosevelt Way NE/NE Northgate Way.

a. Street access to the area;

Street access in the area is outstanding, and street access service capacity is not reasonably anticipated to be an issue. The Property has substantial frontage on two principal arterials (Roosevelt Way NE and NE Northgate Way), access to a third such principal arterial (Pinehurst Way NE within three blocks, and access to northbound and southbound onramps to I-5 within ten blocks.

b. Street capacity in the area;

The Property is located in an urban area where street capacity is generally considered sufficient for development and no concurrency failure or similar issues are reasonably anticipated in the area. Based on its preliminary analyses, TENW currently estimates that the Project will generate 397 net new weekday daily trips, with 23 net new trips occurring during the weekday AM peak hour (-12 in, 35 out) and 35 net new trips occurring during the weekday PM peak hour (30 in, 5 out). Given the proximity of nearby arterials, the impacts of new traffic from the Project is expected to be minor in comparison with significant, existing traffic volumes.

c. Transit service;

The Property is very well served by transit service, and the Project is not anticipated to exceed capacity. In addition to the nearby Northgate Station's link light rail, bus rapid transit and local bus service, the Property is directly and thoroughly served by several King County Metro bus lines. Most notably, the 67 line and the 20 line are "frequent all-day routes" that provide service every fifteen minutes or less from Monday through Friday, 6 am to 7 pm, as well as every 30 minutes or less on weekends from 6 am to 10 pm. The 67 line connects the Property with Roosevelt and University District neighborhoods as well as Children's Hospital, while the 20 line connects the Property with Lake City, Green Lake, and University District neighborhoods. Other Metro lines serving the site include the 347, 348 and 984 lines.

d. Parking capacity;

The Project is not expected to cause an over-burdening of area parking infrastructure. With shared parking between the retail and residential uses, the proposed parking supply is anticipated to accommodate the parking demand without parking spillover onto the adjacent property. It will provide below-grade parking

in compliance with all applicable Code requirements, and the proximity to excellent and rapidly improving transit infrastructure is further offset any possible net effects to public parking capacity.

e. Utility and sewer capacity;

With respect to utility and sewer capacity, the Water Availability Certificate evidencing adequate water service capacity was approved and will not expire until December 13, 2024. *See* SPUE-WAC-21-01985.

The Project is located within a City of Seattle Listed Creek Basin, and will provide applicable detention as required. Onsite storm mitigation, biodetention and possibly green roofing will be provided to the maximum extent feasible such that the Project meets the applicable City of Seattle requirements. The peak flow storm water runoff from the site will be decreased due to proposed mitigation, and sewer facilities are anticipated to have adequate capacity to support the Project.

f. Shoreline navigation.

No navigable shorelines exist in the vicinity of the Property, so this criterion does not apply.

G. Changed Circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

Changed circumstances are not required for rezone approval. Nonetheless, several changed circumstances have occurred since the Property's current height limit took effect in April of 2019, and these changed circumstances weigh in favor of the proposed height increase.

- Possibly the most dramatic changed circumstance in the larger vicinity of the Property occurred on October 2, 2021, when neighborhood-changing complex of multimodal transportation infrastructure commenced service just over half a mile from the Property. This complex features Sound Transit's Northgate link light rail station, which (together with complementary bus service and parking facilities) provides connections to downtown, SeaTac Airport and many neighborhoods in between. On the same day, Seattle Department of Transportation opened the John Lewis Memorial Bridge, which provides a new, state-of-the-art non-motorized connection from the vicinity of the Property to North Seattle Community College and other neighborhoods west of Interstate 5. All of these facilities will complement and be complemented by increased residential density and affordable housing in the vicinity, which the Project proposes to provide.

- The vicinity of the Property also shows clear evidence of private-sector trends toward taller, denser, and more transit-oriented residential development in new buildings. For example, a five-story project under construction at 11201 Roosevelt Way NE will provide 295 new dwelling units (3034991-LU), and due north of the QFC, a vacant assemblage is undergoing improvement with a four-story complex of seven Live/Work parcels and thirteen residential units (3032523-LU and 6508131-CN). Similarly, a taller 80' height limit was just provided nearby through a contract rezone on 10735 Roosevelt Way NE from LR3 (M) to MR (M1) (Ordinance 126540, CF 314441, SDCI Project 3033517-LU).

- Finally, several anticipated but not-yet-completed changed circumstance are anticipated within the next three years and beyond. Sound Transit expects that sometime in 2024 it will commence Lynnwood Link service from the Northgate Light Rail Station, connecting the Project's vicinity with two new stations in Shoreline, one in Mountlake Terrace, and one in the Lynnwood City Center. The Lynnwood Link will provide service approximately every 4-6 minutes during peak hours. Beginning in 2026, Sound Transit will augment the Lynnwood Link by providing bus rapid transit from the Link's Shoreline South station (the

next stop from Northgate) to Lake Forest Park, Kenmore, Bothell and beyond. Finally, Sound Transit anticipates continuing service from Lynnwood north to Everett (including several neighborhoods in between) sometime between 2037 and 2051.

- It is also worth noting that some *unchanged* circumstances also weigh in favor of increasing residential density and affordability on this Property and throughout the Northgate Urban Center. Specifically, Seattle's ongoing crisis of housing affordability.[2]

H. Overlay Districts. If the area is located in an overlay district, the purpose and boundaries of the overlay district shall be considered.

The site is located in the Northgate Urban Center and Northgate Overlay District. The Property also lies within a "Northgate Core" area that appears on a map codified at SMC 23.71.004, but this "Northgate Core" does not appear to qualify as an overlay, nor to have any direct, continuing regulatory effect on the contemplated Project.

Northgate Overlay District. The boundaries of the Northgate Overlay District, including the boundaries of the Overlay District's "Core Area," are codified at Map A to SMC 23.71.004. The purpose and intent of the Overlay District and its applicable regulations are to "[c]reate an environment in the Northgate Area that is more amenable to pedestrians and supportive of commercial development; . . . protect the residential character of residential neighborhoods; and [s]upport the use of Northgate as a regional high-capacity transportation center." SMC 23.71.002.

The Project, with its proposed height increase, will satisfy the codified purposes of the Overlay District by improving the pedestrian environment as further described in Section F.1.d above; supporting commercial development by increasing the Property's commercial floor area and providing approximately 184 units of additional residents who are likely to patronize neighborhood businesses as described in Section F.1.f above; and providing homes for a large population of potential transit riders who could will help improve the fare base of newly completed transit and pedestrian infrastructure within three-quarters of a mile as further described in Section G above.

Northgate Urban Center. The Property lies squarely within the boundaries of the Northgate Urban Center, as designated by Seattle's Comprehensive Plan. While neither the Plan nor the Code provides a purpose statement for this subarea, the Plan provides a list of goals policies that the Project would support, advance and compliment.

Table 1: Consistency with Comprehensive Plan Goals and Policies for Northgate Urban Center		
Goal Number	**Goal Statement**	**Project Consistency**
General Goals		

[2] *See*, *e.g.*, Seattle nearly doubled affordable housing funds. It's not enough. Josh Cohen, Crosscut, June 16, 2022.

NG-G1	A place where people live, work, shop, play, and go to school—all within walking distance.	**Consistent.** This rezone would facilitate increased residential for a Project that would provide new walking-distance living opportunities through the new residential units, together with play/school opportunities through the potential new childcare facility on site. Though some employment and shopping opportunities exist on the Property now and are proposed to go away (Jiffy Lube and Patty's Eggnest), the Project would also provide employment and retail services through the proposed ground-level commercial space that will either be in a daycare or other nonresidential use.
NG-G2	A thriving, vital, mixed-use center of concentrated development surrounded by healthy neighborhood residential areas transformed from an underutilized, auto oriented office/retail area.	**Consistent.** This rezone would facilitate increased residential density for a Project that aims to provide mixed-use, concentrated development, as well as street-tree, childcare, open space and through-block features that taken together would provide a contribution to the health of the surrounding neighborhood. As desired by this goal, this mixed-use Project and its neighborhood contributions would replace auto-oriented retail businesses and expansive and underutilized paved parking areas.
Please see a continuation of this Table 1 responding to additional Goals and Policies at the bottom of this Application narrative.		

I. Critical Areas. If the area is located in or adjacent to a critical area (SMC Chapter 25.09), the effect of the rezone on the critical area shall be considered.

The rezone is not anticipated to have any effect on any critical area. City records indicate that a portion of the Property (on the far easterly side of 1020 NE Northgate Way) may be encumbered by a wetland buffer which pertains to a nearby but off-property bioretention pond. However, the bioretention pond is a man-made stormwater facility associated with the QFC development to the north. It is not a critical area, and to the applicant's knowledge, it is not connected with the Property.

No other critical areas are known to be present on or within 25 feet of the Property. Any final proposal to redevelop the Property will comply with all applicable ECA regulations.

Currently, the applicant contemplates an open through-block pedestrian connection that joins NE Northgate Way with a shared easement on the north side of the site as part of the Project. The applicant currently anticipates complimenting the pedestrian connection and the buffer with appropriate plantings in this general area.

J. Incentive Provisions. If the area is located in a zone with an incentive zoning suffix a rezone shall be approved only if one of the following conditions are met:

1. The rezone includes incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone; or

2. If the rezone does not include incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone, an adopted City housing policy or comprehensive plan provision identifies the area as not a priority area for affordable housing, or as having an adequate existing supply of affordable housing in the immediate vicinity of the area being rezoned.

The current zoning applicable to the Property includes a "M" suffix, indicating MHA program requirements apply. Because the height proposed would increase the zoned capacity of the Property from a "Category 3" zone to a "Category 4" zone pursuant to SDCI Director's Rule 14-2016, the Property should receive an updated "M1" suffix through the contract rezone approval and PUDA. Regardless, the Project proposes all affordable housing, which will go beyond the requirements of the MHA program for M1 suffix properties.

16.4 Criteria at SMC 23.34.009 - Height Limits of the Proposed Rezone

If a decision to designate height limits in residential, commercial, or industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:

A. Function of the zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.

The applicant requests to increase allowed height limit on the Property from the current 55' to 65', without a change to the underlying zone. The proposed 65-foot height limit would be compatible with the type and scale of development intended for Neighborhood Commercial 3 zoning, which intends to provide "residences that are compatible with the retail character of the area," and where possible, "[i]ntense pedestrian activity," and transit as "an important means of access." SMC 23.24.078. The additional height provided by this rezone would serve to provide greater population density, thereby further intensifying pedestrian activity and providing a larger rider base for area transit. The proposed height limit would also be consistent with the type and scale of development intended for the Northgate Urban Center, as set discussed in Table 1 above (and continued below).

The requested height increase would allow for development of 31 additional units, which will positively benefit the economics, character and vibrancy of the immediate area by providing resident demand for goods and services within walking distance.

Displacement of "preferred" uses is not applicable. The automobile-centric restaurant site and Jiffy Lube are not use types preferred for this zone.

B. Topography of the area and its surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.

The area around the Property is generally flat, so no particular topographic features are present for reinforcement by the Project. The likelihood of view blockage is very slim, due to the flat nature of the vicinity. Few, if any, uses in the area are view-sensitive. With respect to the several residential uses across NE

Northgate Way, the Project will displace their territorial view of QFC's blank façade, the two businesses to be removed, and an expansive parking area, as shown below.

Please see the above discussion of compliance with SMC 23.34.008.E.2, which addresses the topography of the site in further detail.

The SEPA Ordinance designates certain public places for which view protection is City policy. The proposed project would not adversely affect views from the listed public places under current or proposed height limits. The SEPA Ordinance also designates certain scenic routes identified as protected view rights-of-way. No adjacent streets have been identified as protected scenic routes.

C. Height and scale of the area

1. The height limits established by current zoning in the area shall be given consideration.

The Property lies within the Northgate Urban Center, and the height limits established by current zoning in the area has designated many parcels with height limits of 75 feet or more, as shown by the zoning map provided in Figure 6, above. A few LR3 parcels are located to the north of the site, but it is not uncommon for those zones to abut zones with height limits of 65 feet, and a few LR2 parcels are located to the south of the site, as further discussed below in the narrative response to SMC 23.34.009.D.2. No LR1 or NR zones exist in the immediate area of the Site.

2. In general, permitted height limits shall 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.

Higher heights are especially predominant along NE Roosevelt, which directly abuts the Property. In fact, 75- to 95-foot height limits currently apply to several lots across this arterial from the Site. A 65-foot zoned height for the site would be compatible with this range of heights.

There are a number of new developments proposed in the vicinity of the Property that signal the development potential of this area is predominantly multi-story development. Specifically, a five-story project under construction at 11201 Roosevelt Way will provide 295 new dwelling units (3034991-LU), and due north of the QFC, a vacant assemblage is undergoing improvement with a four-story complex of seven Live/Work parcels and thirteen residential units (3032523-LU and 6508131-CN). Perhaps most notably, 80' height limit that was just approved nearby through a contract rezone on 10735 Roosevelt Way NE from LR3 (M) to MR (M1) (Ordinance 126540, CF 314441, SDCI Project 3033517-LU).

In contrast, existing lower-scale development in the area is not a good indicator of development potential because much of that lower-scale development was constructed prior to the 1993 Plan, in very different eras. For example, the existing one-story buildings across NE Northgate Way were constructed in

the late 1960s through 1970s, and are not a good indicator of the site and surrounding area's development potential. Likewise, the low-slung and auto-oriented chain retailers located north, east and southeast of the site were constructed in the 1970s and 1990s. According to County records, the most recent of these is the Walgreens that was constructed 23 years ago. That structure is located due southwest of the site, across NE Northgate Way and Roosevelt Way NE.

D. Compatibility with surrounding area

1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.

As explained above, below, and in accompanying EDG materials, the proposed Project is designed to be compatible with actual and zoned heights in surrounding areas. For more information, please see this document's narratives in response to SMC 23.34.008 subsection C concerning area contract upzones; at subsection E concerning transitions and physical or topographic buffers; or at subsection G, concerning the increased dominance of substantial actual and zoned heights in the vicinity.

Please see Appendix C to this rezone application, which includes a selection of figures from the final EDG package's massing and zoning envelope studies.

2. A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in subsection 23.34.008.E.2, are present.

Applicable physical buffers are discussed above in response to SMC 23.34.008.E.2, and transitions are discussed in response to SMC 23.34.008.E.1.

The Project also includes several features that are designed to mitigate the effects of structure height and scale on the surrounding properties, and to provide gradual transitions in height, scale and activity level. Specifically, it would:

- Provide street trees and similar frontage improvements;
- Thoughtfully embrace corners and streetscapes;
- Provide neighborhood open spaces and through-block connections facing the LR2 parcels to the south while providing parking and utility access on the easement that faces the adjacent QFC;
- Place a through-block connection on the Property boundary that falls closest to Victory Creek Park;
- Provide daycare-compatible commercial space (to include possible pick-up/drop-off and playground areas) facing away from the LR2 parcels, but readily accessible to those properties by way of the proposed through-block pedestrian connection;
- Include landscaping in the proposed open space facing NE Northgate Way to further soften the transition, and appropriate street trees approximately every 35 feet on the façade facing the LR2 properties, as well as on the façade that faces Roosevelt Way NE. Additional information may be found in the EDG materials provided under SDCI file no. 3039547-EG.

E. Neighborhood plans

1. Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.

Though the 1993 Plan and the current Comprehensive Plan do not provide specific height recommendations that are relevant to this Property or the Project. However, the City's overall policy has been remarkably consistent, from the 1993 Plan's vision for land use and urban design that would"[c]oncentrate the most intense and dense development within the core," to the Comprehensive Plan's current goal NG-G4, that "[t]he most intense and dense development activity is concentrated within the Core. 1993 Plan at 4, Comprehensive Plan at 357. This Property has been designated as part of Northgate's "Core" from 1993 to the present.

In the current Comprehensive Plan's goals for the Northgate Urban Center, perhaps the most relevant goal is NG-P8.5: "Support future potential rezones to higher-intensity designations in the North[gate] Core Subarea." The requested height would provide just such a higher-intensity designation. Please see also this application's detailed discussion in response to SMC 23.34.008.D.2, as well as the consistency statements provided in Table 1, which begins at this application's response to SMC 23.34.008.H and is continued below.

2. Neighborhood plans adopted or amended by the City Council after January 1, 1995, may require height limits different than those that would otherwise be established pursuant to the provisions of this Section 23.34.009 and Section 23.34.008.

The 1993 Plan predated January 1, 1995 so this criterion does not apply

16.5 Criteria at SMC 23.34.011 - Neighborhood Commercial 3 (NC3) zones, function and locational criteria.

The Property's NC3 zoning continues to be appropriate, as described below. The Project, including its proposed height increase, will be compatible with NC3 zoning as described in this response.

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;

This Property already supports, and the Project would more effectively support and encourage, the pedestrian-oriented shopping district formerly known as Northgate Mall, which serves the surrounding neighborhood and (especially through access to Link Light Rail, King County Metro infrastructure, the John Lewis Bridge and I-5) a larger city and regional community.

Through the Project, the current nonresidential uses provided by Patty's Egg Nest and Jiffy Lube would be replaced with a tremendously more supportive and encouraging transit-oriented mixed-use development that would provide childcare, shopping or other commercial opportunities at ground level, and a base of pedestrians and shoppers in the modern affordable multifamily units above. The ground level would provide for retail or services uses, while the residential density above would be compatible with the area's larger retail- and transit-oriented character.

and where the following characteristics can be achieved:

1. A variety of sizes and types of retail and other commercial businesses at street level;

The Property is appropriate for NC3 zoning in terms of this criterion because it provides low-density, auto-oriented sizes and types of retail and commerce at street level. As improved by the Project, the Property would remain functionally appropriate because it would continue to provide retail or other businesses at the street level.

2. Continuous storefronts or residences built to the front lot line;

This functional criterion is not completely met by the Property at present, because of the low-density, auto-oriented nature of existing storefronts. This functional criterion would be better achieved by the Project, which would provide commercial and residential uses built in to a much larger part to the front lot line.

3. Intense pedestrian activity;

This functional criterion is not completely met by the Property at present, because of the low-density, auto-oriented nature of Jiffy Lube and Patty's Egg Nest uses. This functional criterion would be better achieved by the Project, which would provide greater pedestrian comfort and interest in its site design attributes and in the nature of its commercial spaces, as well as a base of new residents on site, who by their residency would intensify pedestrian activity on these streets.

4. Shoppers can drive to the area, but walk around from store to store;

This functional criterion is true of the area in which the Property is located, which is capable of being accessed by single-passenger vehicle, and then navigated on foot. As improved by the Project, the Property would better achieve this functional criterion by continuing to provide some parking for resident-shoppers below ground, but also providing a more robust and exciting store-to-store pedestrian experience on adjacent sidewalks.

5. Transit is an important means of access.

This functional criterion is achieved because the Property is accessible by transit along NE Northgate Way, Roosevelt Way NE, and of course through nearby King County Metro and Sound Transit infrastructure provided at Northgate Station. As improved by the Project, the Property would even more effectively achieve this functional criterion, because the increased density would have a mutually-beneficial relationship with area transit routes.

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;

The Property (and associated primary business district) is located within an urban center, so it satisfies this locational criterion now and will continue to do so when improved by the Project.

2. Served by principal arterial;

The Property is effectively served by three City-designated Principal Arterials: NE Northgate Way, Roosevelt Way NE and Pinehurst Way NE, so it satisfies this locational criterion now and will continue to do so when improved by the Project.

3. Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;

The Property is effectively separated from low-density residential areas by physical edges (such as an existing bioretention pond, Victory Creek Park and other features of Thornton Creek, the NE 112th Street buffer, and the aforementioned arterials) as well as less-intense commercial and more-intense residential areas (such as LR2 and NC2-55 properties to the south). The Property therefore satisfies this locational criterion, and will continue to do so when improved by the Project.

4. Excellent transit service.

This locational criterion is achieved because the Property is served by excellent transit along NE Northgate Way, Roosevelt Way NE, and of course through nearby King County Metro and Sound Transit infrastructure provided at Northgate Station. As improved by the Project, the Property would be even more appropriate for NC3, because the Project's increased density would have a mutually-beneficial relationship with area transit routes.

17. Scale Drawings are provided in related MUP application materials.

III. Appendices.

A. Vicinity Zoning Maps.

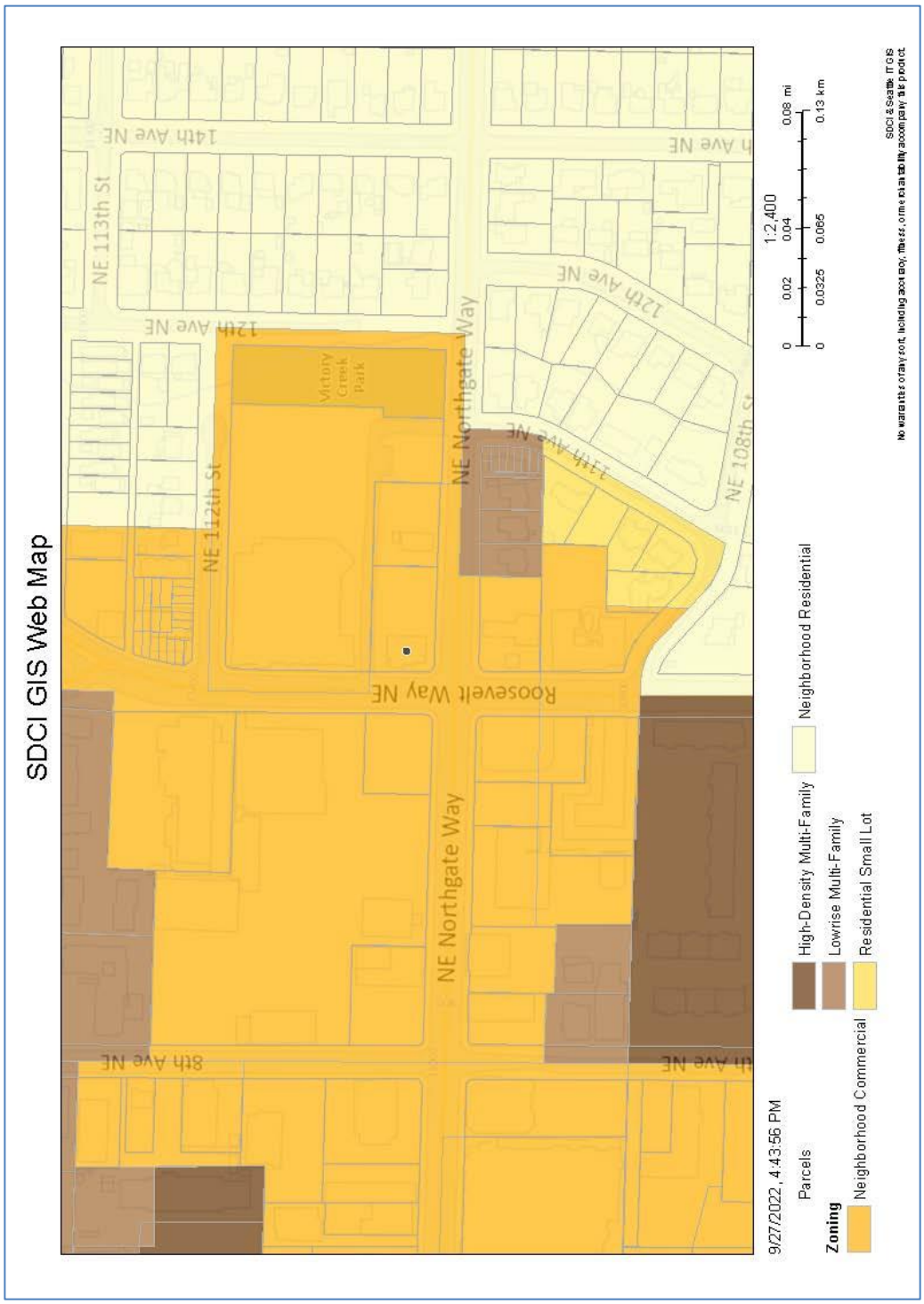


Figure 7 Vicinity Zoning Map (Subject Property at center, marked with dot).

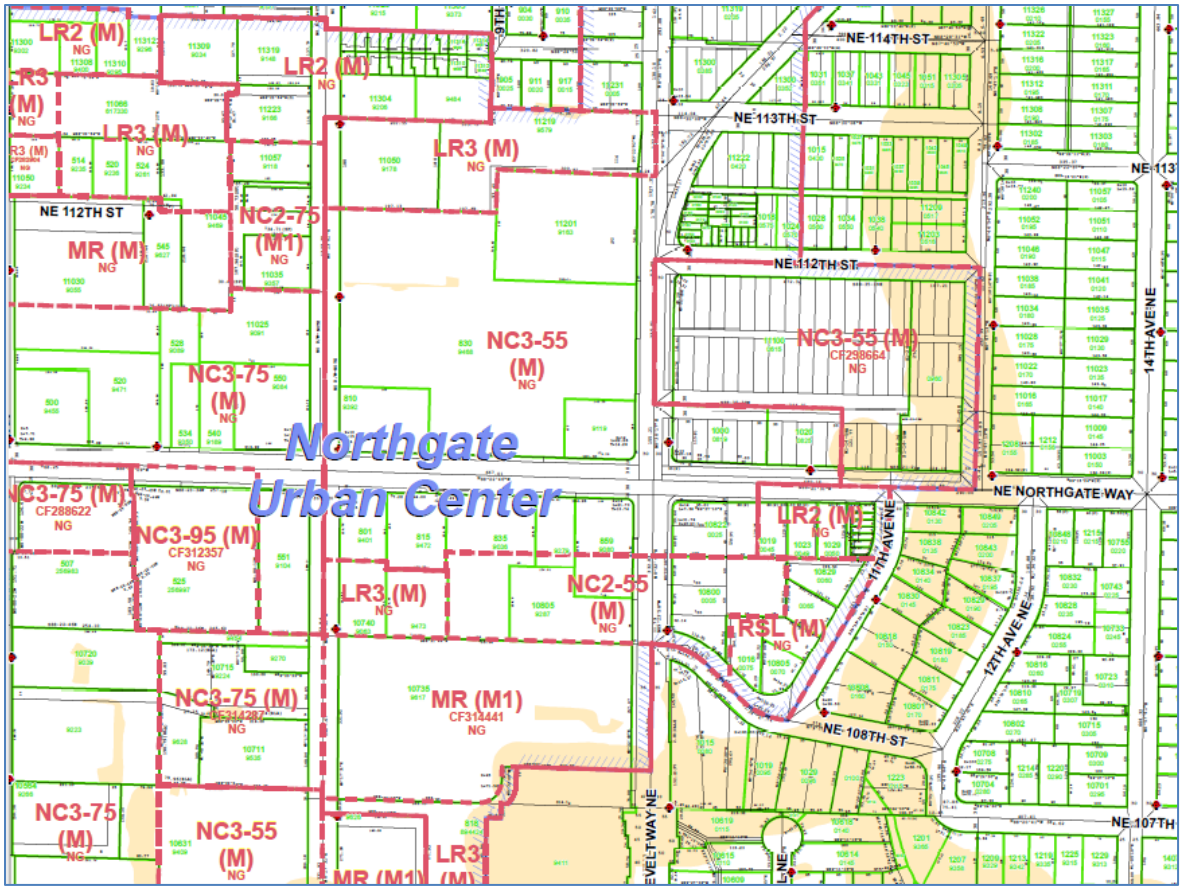


Figure 8: Vicinity Zoning Map with Height

B. Continuation of Comprehensive Plan Consistency Table.

Table 1, Cont'd: **Consistency with Comprehensive Plan Goals and Policies for Northgate Urban Center**		
Policy #	**Policy Statement**	**Project Consistency**
NG-G3	The surrounding neighborhood residential areas are buffered from intense development in the core, but have ready access to the goods, services, and employment located in the core via a range of transportation alternatives including walking, bicycling, transit, and automobile (the core area is shown on the Northgate map).	**Consistent.** Surrounding neighborhood residential areas would remain buffered as described in 23.34.008.E above, while the Project would provide additional commercial floor space at its ground level, and support transportation alternatives at this core location by providing a mid-block connection, storefronts and entrances that engage with the sidewalk, and frontage improvements such as street trees.
NG-G4	The most intense and dense development activity is concentrated within the core.	**Consistent.** This Property is located within the core. The proposed height increase would provide more intense and dense development activity in this area.
NG-G5	Commercial activity outside the core is smaller in scale and allows for a mix of uses that serve the adjacent residential neighborhoods.	**N/A.** This Property is located entirely within the designated "Core" of the Northgate Urban Center.
NG-P1	Encourage development of the core as a major regional activity center for retail, commercial, office, multifamily residential, and educational uses with densities sufficient to support transit.	**Consistent.** This rezone would facilitate increased and revitalized retail and commercial activities on its ground level, as well as denser multifamily uses at higher levels (including the level of the height increase), which will contribute to transit ridership in the vicinity.
NG-P2	Use land use regulation to cause new development to locate close to transit stops and provide good pedestrian and bicycle connections throughout the area so that intra-area vehicular trips and locally generated traffic are reduced.	**Consistent.** The Project generally, and the requested increased height would cause an additional story of new residences to locate at the Property's close proximity to transit stops and pedestrian infrastructure.
NG-P3	Use a Northgate Overlay District to address the special characteristics of development in the area.	**Consistent.** This Overlay has been enacted at ch. 23.71 SMC, and it includes special development characteristics that would apply to the Property due to the Property's frontage on NE Northgate Way and Roosevelt Avenue NE. However, these special characteristics have not yet been applied, because substantial development has been slow in coming to this particular Property. This Project would bring

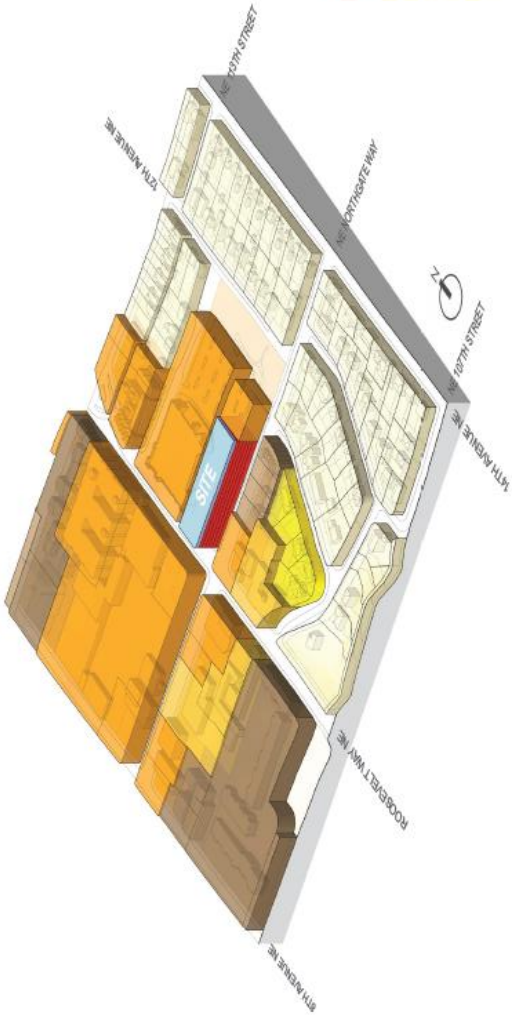
		substantial development, and thereby finally apply more of the Overlay District's stylistic vision along this frontage.
NG-P4	Concentrate employment activity where the infrastructure and transportation system can best accommodate it.	**Consistent.** This mixed-use Project will provide substantial employment in its ground-floor nonresidential floor space, commensurate with its access to infrastructure and transportation. However, the majority of the Project's floor space will be dedicated to residential use rather than employment activity, which is appropriate given the Project's location.
NG-P5	Promote a mixture of activities including commercial and residential uses in areas that have Neighborhood Commercial and Residential Commercial zoning designations.	**Consistent.** This is a mixed-use Project, which will provide a mix or commercial and residential uses and activities on a single NC-zoned site.
NG-P6	Promote additional multifamily housing opportunities for households of all income levels to the extent that a compatible scale and intensity of development can be maintained with adjacent neighborhood residential areas.	**Consistent.** This Project will itself directly provide approximately 184 new units of income-restricted multifamily housing units which will be made available to households at affordable levels. Scale and intensity are compatible with adjacent neighborhoods, as further discussed in this application's narrative response to SMC 23.34.009.D.
NG-P7	Reduce conflicts between activities and promote a compatible relationship between different scales of development by maintaining a transition between zones where significantly different intensities of development are allowed.	**Consistent.** As discussed in more detail at Question 14 and in the narrative response to SMC 23.34.008.E, this Project will carefully maintain, respond to and enhance transitions between different zones to reduce conflicts and promote competitive relationships between activities between different scales of activities.
NG-P8	Maintain the physical character of historically lower-density areas of the urban village by encouraging housing choices such as rowhouses, townhouses, and lowrise apartments. Encourage primarily residential uses in these areas while allowing for commercial and retail services for the village and surrounding area.	**Non-Applicable.** This site is located in an urban center, not an urban village.
NG-P8.5	Support future potential rezones to higher-intensity designations in the North Core Subarea. In considering such rezones, pay particular attention to the development of an environment that creates a network of pedestrian	**Consistent.** This Project lies across the street from the Northgate Core Subarea as mapped in the Comprehensive Plan. However, particular attention has been paid to creating a network of pedestrian connections, such as the proposed through-block connection. Similarly, the Project will help develop

	connections and that encourages pedestrian activity, among other considerations associated with a rezone review.	an environment that encourages pedestrian activity by finally catalyzing frontage improvements that have been an unrealized City vision for this site's frontage since at least 1993, as further described in the provisions of the Northgate Overlay District that have special application to this Property's arterial frontage..
NG-G6	An economically viable commercial core with improved alternative means of access, good vehicular and pedestrian circulation, and an enhanced, interesting environment that attracts customers, visitors, and employers.	**Consistent.** This Project lies across the street from the Northgate core subarea as delineated in the Comprehensive Plan. However, the Project will still contribute to the economic viability of the core through Project's new commercial floor space, approximately 184 units of new resident consumer population, and its proposed improvements to pedestrian circulation and environment on street frontage immediately adjacent to the core.
NG-G7	Medium- to high-density residential and employment uses are concentrated within a ten-minute walk of the transit center, reducing the number and length of vehicle trips and making travel by foot and bicycle more attractive.	**Consistent.** The Property is an infill site located just beyond a ten-minute walk of the transit center. Therefore, the Project should contribute to vehicle trip reductions and encourage foot and bicycle travel as contemplated by this policy.
NG-P9	Promote the efficiency of the transportation system by accommodating more person trips rather than vehicle trips.	**Consistent.** The Property is an infill site located just beyond a ten-minute walk of the transit center. Therefore, the Project should contribute to a greater number of person trips as compared with vehicle trips. The Project's proposed pedestrian-focused frontage improvements and its through-block connection will also help to accommodate a greater number of person trips, whether by foot, transit, bicycle.
NG-P10	Enhance transit service and facilities to make it a more attractive travel mode for people living and working in the Northgate Area.	**Consistent.** This Project will enhance access to transit service through frontage improvements along its Roosevelt Way NE and NE Northgate Way frontage, which will make transit a more attractive option both for the Project's future residents and for neighbor who may board Metro near the Project or walk past the Project *en route* to the Northgate Station.
NG-P11	Promote pedestrian circulation with an improved street-level environment by striving to create pedestrian connections that are safe, interesting, and pleasant.	**Consistent.** The Project will provide a dramatically improved street-level environment along its frontage and in its through-block connection. It will promote pedestrian circulation that is safer through increased lighting, sidewalk improvements and "eyes on the street." Simultaneously, it will maintain pedestrian interest and enjoyment through modulated facades and active storefronts, plantings, open space, street

		trees and other improvements.
NG-P12	Manage parking supply, location, and demand to discourage the use of single-occupant vehicles, and to improve short-term parking accessibility for retail customers, patients, and visitors, without undermining transit or high-occupancy vehicle (HOV) usage, or detracting from the creation of an attractive pedestrian environment.	**Consistent.** The Project will manage parking supply, location and demand by providing its residents with parking on-site underground, but will help manage the larger vicinity's demand for single-occupant vehicles by providing dense housing within easy walking distance of the Northgate Station and other appropriate routes.
NG-P13	Seek to reduce the impact of increases in traffic volume by limiting conflicts with local access streets, and improving traffic flow, circulation and safety, without increasing vehicular capacity.	**Consistent.** The Project will help reduce conflicts with its through-block connection, as well as its thoughtful deployment of the existing easement that runs between the Property and the QFC grocery store complex.
NG-P14	Seek to control impacts of a high-capacity transit station on surrounding neighborhoods by emphasizing nonmotorized access, transit-supportive land uses, and an attractive pedestrian environment at and near the station.	**Consistent.** The Project will help address impacts of the Northgate Station by providing frontage improvements, an through-block connection, and activated, modulated facades. These will emphasize non-motorized access and increase attractiveness of the pedestrian enironment. Furthermore, as a transit-oriented, mixed-use affordable housing development, the Project is itself a very transit-supportive land use.
NG-G8	Quality open space exists in sufficient quantity and variety to meet the needs of workers, shoppers, students, and visitors, as well as recreational and natural spaces for the growing residential population.	**Consistent.** The Project will provide open space commensurate with its conscientious approach to providing affordable, high-quality units for the Northgate area's growing residential population. Notably, the Project will also place its approximately 184 affordable units in close proximity to the public park and open space resources provided on other properties by the Thornton Creek Watershed.
NG-P15	Promote a system of open spaces and pedestrian connections, to guide acquisition, location, and development of future open space and to establish priorities for related public improvements.	**Consistent.** The Project is guided by the system of open spaces that the City has provided thus far, insofar as it will create multifamily residential units in close proximity to Victory Creek Park and designated pedestrian arterials. The Project itself will further promote such a system by developing open spaces on its own site and by providing a new through-block pedestrian connection.
NG-P16	Promote reduction of potential runoff into Thornton Creek, and encourage restoration of the creek to enhance aquatic habitat and absorb more runoff.	**Consistent.** At present, the Property is in largely impermeable use and oriented toward facilitating automotive travel. The Property's present condition was also created several decades ago, well before the establishment of current best practices for reducing, absorbing and treating runoff. The Project will

		provide a greater percentage of permeable surfaces on the Property, and will use all applicable and appropriate practices for runoff reduction, absorption and treatment.
NG-P17	P17 Encourage quality human services for all segments of the population.	**Consistent.** The Project will provide a high-quality residential environment at affordable rents. It also hopes to accommodate a daycare use in its ground level retail space.
NG-P18	Explore and seek to develop a variety of strategies for financing implementation of these goals and policies.	**Consistent.** The Project will meet the enumerated goals and policies through development of the site with contributions from public and private funding sources.

C. Massing and Zoning Envelope Studies.

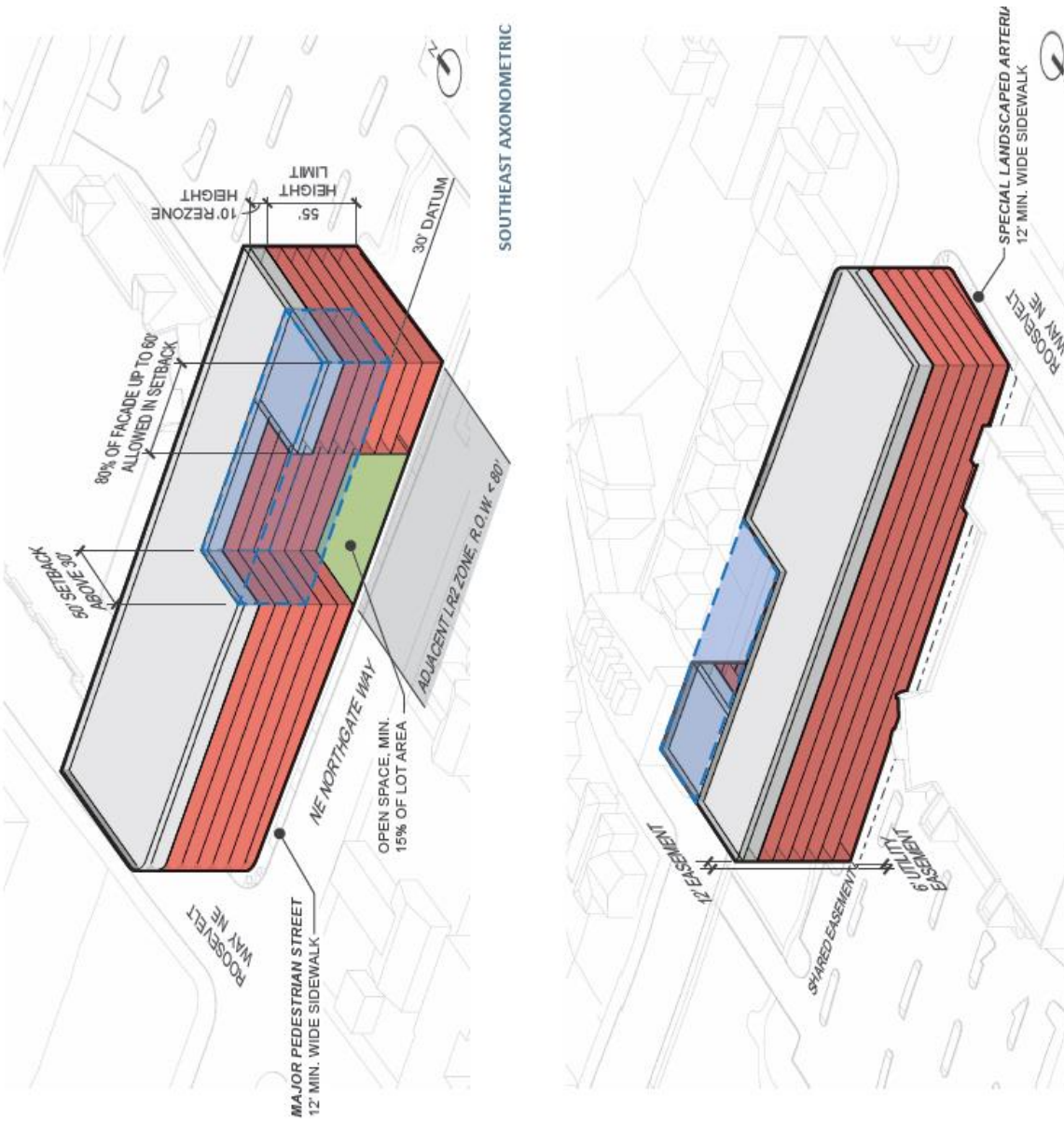


ZONING ENVELOPE DIAGRAM

The following diagram is a visualization of the neighborhood's zoning heights and relative densities. Denser and taller height limits in Neighborhood Commercial zones can be found west of the site while low-rise, single-family housing can be found east of the site. Transition zones such as LR3 and LR2 are found between the other zones to help blend the neighborhood's varying scale and density. The site itself also lies in this transition space with an LR2 zone being located across the site along NE Northgate Way. This will have an impact on the project so the final design doesn't create conflicts of scale from its low-rise neighbors.

POTENTIAL DEVELOPMENT DIAGRAM

This diagram maps out existing surface-grade parking lots around the site, as well as low-rise commercial properties that have the potential for development. This is speculative, but the larger picture is to illustrate the amount of existing low-density properties in the area. Compared to their respective zoning heights shown in the illustration above, it's clear to see that the Northgate neighborhood has the potential to densify and fill the streetscape with residences and businesses alike. The project's zoning envelope might look large for the neighborhood now, but will blend more seamlessly into the urban fabric in the coming years as the neighborhood grows and meets its development potential.

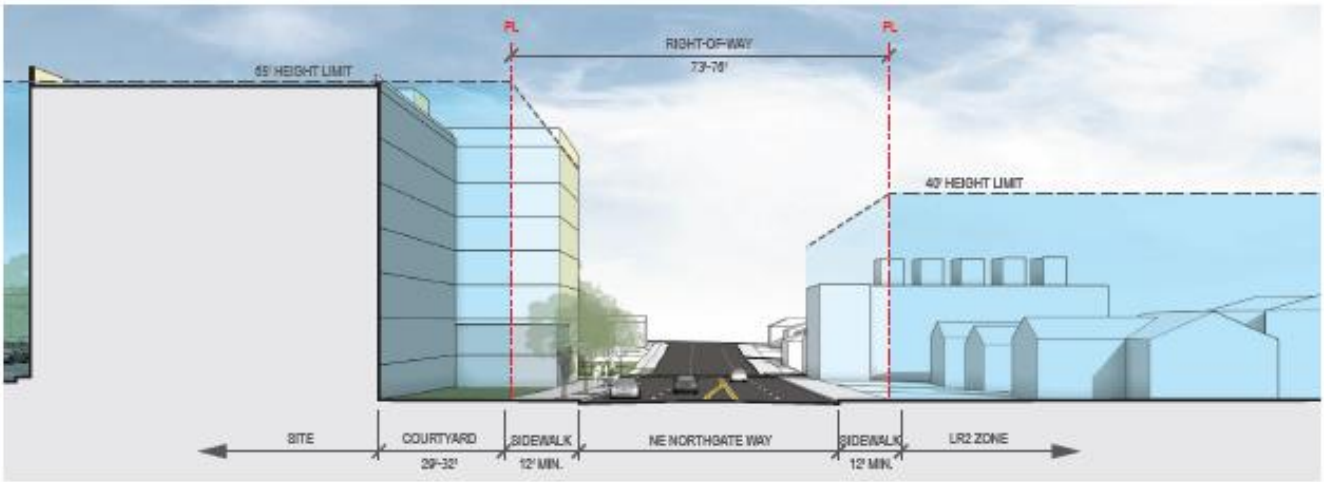


SUMMARY

The following diagrams illustrate the various zoning constraints which define the site's buildable envelope. Two of the largest items to consider are a requirement for a minimum percentage of neighborhood open space and a setback along the facade which faces and LR2 zone across NE Northgate Way. Additionally, the site shares a twelve foot easement with the neighboring property to the north and must be maintained for vehicular access to both sites.

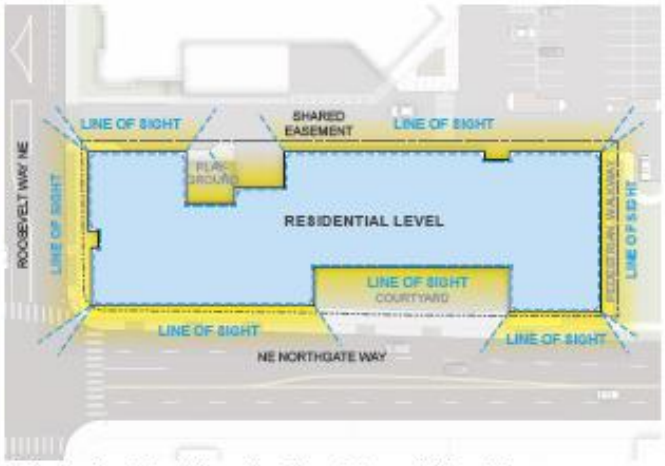
CONTRACT REZONE

The project is currently undergoing a rezoning to increase the building's height from 55' to 65' with an increase floor area ratio to match. The top floor shown in light gray illustrates what impact this would have on the zoning envelope.

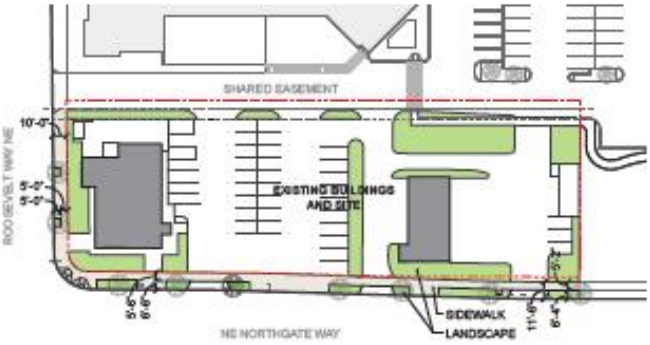


A wider sidewalk and large courtyard are proposed across the adjacent low rise zone to help aid in the zoning transition. The height limit of the zones are also shown, illustrating each's developable potential.

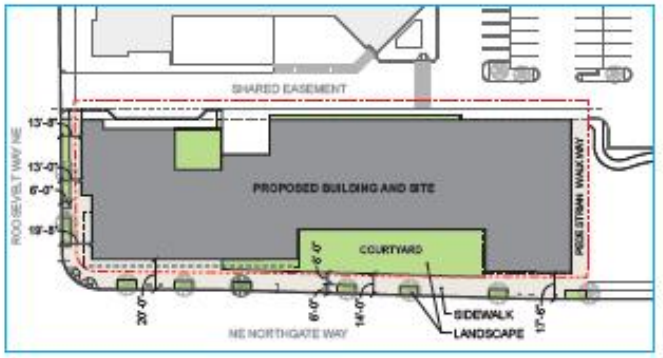
The aerial view shown illustrates the proposed courtyard location with regards to the adjacent LR2 zone.



Typical residential levels have clear lines of site to all sides of the property, including the east side lot line and shared easement. There are no overhangs or blind corners in order to deter crime and to maintain public safety.



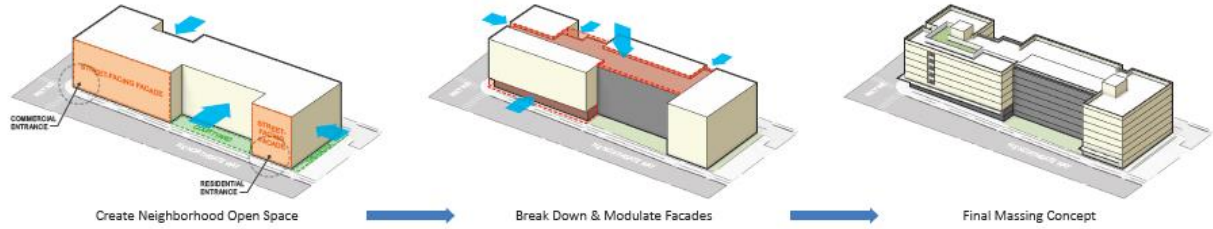
EXISTING SITE



PROPOSED EDG DESIGN (PREFERRED OPTION 3)

The proposed site design will include widened sidewalks and more room for plantings per the city's improvement standards and direction from SDOT. These improvements will be studied in greater detail as the project develops.

CONCEPT DIAGRAMS

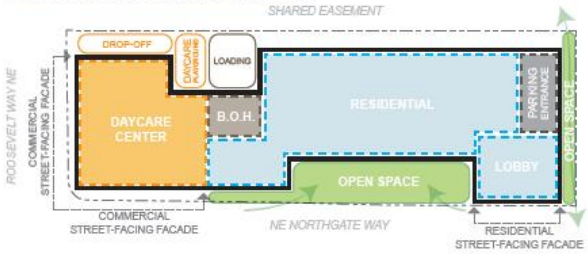


AERIAL VIEW FROM SOUTHWEST

AERIAL VIEW FROM NORTHEAST

- (A) Pronounced massing at corner
- (B) Large ground-level open space
- (C) Articulated building entrance
- (D) Facade modulation
- (E) Daycare playground
- (F) Garage access

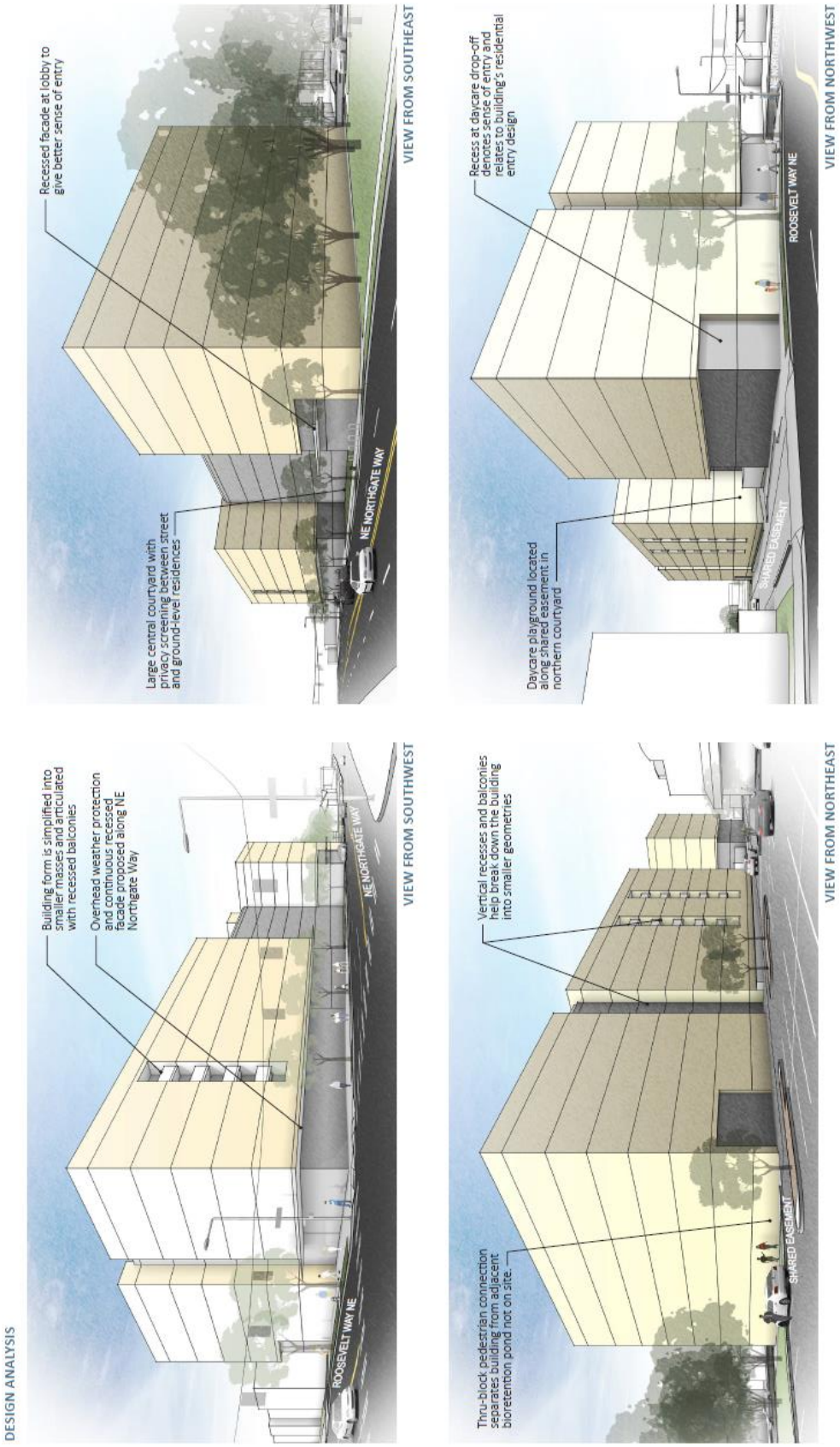
CONCEPTUAL PROGRAMMING DIAGRAM



DESIGN INSPIRATION

Refined building geometries with rhythmic patterning

Cutouts in facade give a sense of entry


DESIGN ANALYSIS
Building form is simplified into smaller masses and articulated with recessed balconies
Overhead weather protection and continuous recessed facade proposed along NE Northgate Way
ROOSEVELT WAY NE
NE NORTHGATE WAY
VIEW FROM SOUTHWEST
Vertical recesses and balconies help break down the building into smaller geometries
Thru-block pedestrian connection separates building from adjacent bioretention pond not on site.
SHARED EASEMENT
VIEW FROM NORTHEAST
Recessed facade at lobby to give better sense of entry
Large central courtyard with privacy screening between street and ground-level residences
NE NORTHGATE WAY
VIEW FROM SOUTHEAST
Recess at daycare drop-off denotes sense of entry and relates to building's residential entry design
Daycare playground located along shared easement in northern courtyard
SHARED EASEMENT
ROOSEVELT WAY NE
VIEW FROM NORTHWEST

FINDINGS AND RECOMMENDATION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of Application of	Hearing Examiner Files: **CF 314513-LU**
ANDREW KLUESS, CARON ARCHITECTURE,	Department References: 3039050-LU
For a Rezone of Property at 1000 and 1020 NE Northgate Way.	

FINDINGS OF FACT

1. Introduction. Request for a contract rezone from one Neighborhood Commercial designation to another, NC3-55' (M) to NC3-65' (M1) at 1000 and 1020 NE Northgate Way, in the Northgate Overlay District and Urban Center. The project includes construction of a 7-story, 184-unit apartment building with retail and parking for 88 vehicles, on a 40,285 square foot site.

2. Hearing. A properly noticed public hearing[1] was held remotely and in person August 14, 2023. The Seattle Department of Construction and Inspections ("Department"), through David Landry, AICP, described the proposal. The Applicant, represented by Abigail Pearl DeWeese, Hillis Clark Martin & Peterson P.S., introduced the project and called two witnesses. Emily Thompson, of GMD Development LLC, provided project background and described the public funding aspect. Aaron Blaha, of Axis/GFA, the architecture firm which designed the project, provided detail on project design and fit with the surrounding area. No member of the public indicated a wish to testify, but in case anyone had technical difficulty connecting, the record was kept open through day end. No public comment was received.

3. Exhibits. The Department submitted Exhibits 1-27. The Applicant submitted three exhibits (Exhibits 28-30), with an updated version of Exhibit 28 submitted after the hearing. All exhibits were admitted without objection. No written public comment was submitted to the Examiner.

4. Site Visit. The Examiner visited the site on August 24, 2023. The visit provides context, but is not evidence.

5. Site and Area. The site contains a restaurant (Patty's Eggnest), an auto related use (Jiffy Lube), and accessory parking. The site is surrounded on four sides by NC3-55(M) zoning, with some LR2(M) zoning to the south. The area includes residential and commercial development ranging in height from one to two stories for older development, with newer development being five stories. Immediately north is a QFC grocery, which shares an access easement with the project site, with a Roosevelt Way NE curb cut providing access to both properties. Roosevelt Way NE is

[1] Exhibit 26; SMC 23.76.052(C). No concerns on notice were raised.

a Special Landscape Arterial (SMC 23.71.012). It has sidewalks and a bus stop at the corner of NE Northgate Way near the access easement shared with QFC.

North of the QFC is the recently completed Noren Pinehurst Townhouses and Live Work Units. A gas/service station and mini mart is at NE Northgate Way/Roosevelt Way NE's southeast corner, with Walgreens on the southwest corner and commercial uses further west. Roosevelt Way NE's west side houses the Northgate Village Shopping area which includes a TJ Maxx department store and other retail establishments amidst surface parking. To the east is a bio-retention pond and beyond the pond is Victory Creek Park, along 12th Ave NE's west side. The area also includes Hubbard Homestead Park, Northgate North shopping center, and Northgate Mall.

6. Written Comments. Public review was afforded through the Early Design Guidance Meeting and environmental review. The Department reviewed and conditionally approved the Design Review Board recommendation, finding it consistent with the Design Review Guidelines. The Department also reviewed the project through the State Environmental Policy Act, Ch. 43.21C, identifying conditions and finding the proposal does not have significant environmental impacts. These decisions were not appealed. The Department Recommendation addressed comments received, which are included in the exhibits.[2] Several comments supported the added housing; others did not. Several comments identified parking adequacy concerns while others appreciated the 88 spaces provided. No public comments were submitted directly to the Examiner.

7. Project Details. The rezone is coupled with a specific development project. The below image is not to scale, but provides an illustration:[3]

VIEW FROM SOUTHWEST

[2] Exhibit 25 (Staff Report), pp. 506-507 of PDF or 505-506 of paper; Exhibits 9b and10b.
[3] Exhibit 28 (Applicant Power Point), p. 13, *see also* pp. 12 and 14-17, for pictures from varying perspectives.

8. Department Review. The Department recommended approval with conditions. The three proposed rezone conditions ensure development is constructed as proposed. Five conditions address the design review and the two SEPA conditions on construction management and trees are recommended subject to Council review. The attachment at the end of this Recommendation lists all conditions. The Department Recommendation includes considerable detail on the rezone criteria and is incorporated as supplemental findings.[4]

CONCLUSIONS OF LAW

1. Jurisdiction. The Hearing Examiner has jurisdiction to issue a recommendation on the rezone, while the Council makes the final decision.[5]

2. Criteria, Summary. Criteria for assessing a site-specific rezone request are at SMC 23.34.004 (contract rezones), 23.34.006 (MHA suffixes), 23.34.007 (rezone evaluation), 23.34.008 (rezone criteria), 23.34.009 (height limits), and 23.34.078 (NC3 zones). Despite the considerable level of often overlapping criteria, the key consideration is zoning compatibility with the land use planning for the area.

3. Contract Rezone. As this is a contract rezone, a Property Use and Development Agreement or PUDA will be executed and recorded.[6] The code details payment and performance requirements.[7] The PUDA should include conditions requiring property development to substantially conform with the approved plans for Master Use Permit #3039050-LU.

4. "M" Suffix: Mandatory Housing Affordability, SMC 23.34.006. With the proposed zoning, the site is subject to MHA requirements at SMC 23.58B and/or 23.58C. The existing zoning contains an "M" suffix and the site should have an "M" suffix under the proposed zoning.[8] As zoned capacity would increase (Category 3 to 4) an updated M1 suffix should apply.[9] The development is for 100% affordable, so exceeds MHA requirements.

5. Rezone Evaluation, SMC 23.34.007. Applicable sections of Ch. 23.34 SMC on rezones are weighed and balanced together to determine the most appropriate zone and height designation.[10] Zone function statements are used "to assess the likelihood that the area proposed to be rezoned would function as intended."[11] "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...."[12] The most appropriate zone designation is the one "for which

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[4] Exhibit 25.
[5] SMC 23.76.004(C); SMC 23.76.004, Table A.
[6] SMC 23.34.004.
[7] *See e.g*., Ch. 23.58B and .58C SMC.
[8] SMC 23.34.006.
[9] Director's Rule 14-2016.
[10] SMC 23.34.007.
[11] SMC 23.34.007(A).
[12] SMC 23.34.007(B).

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."[13]

6. Match Between Zone Criteria and Area Characteristics, SMC 23.34.008(A) and (B). The proposal follows Comprehensive Plan growth targets and is a good fit within the area. The project is within the Northgate Urban Center, which has a 3,000 housing unit growth target to achieve between 2015 and 2035 with a 11 housing unit per acre overall density. A 2021 evaluation found the Northgate Urban Center had only achieved 7.9% of this residential growth target. The rezone will increase zoned capacity and will help with achieving housing objectives for the area.

The NC3 designation meets functional and locational criteria. The project supports a pedestrian-oriented shopping district that services the surrounding neighborhood and larger community and incorporates businesses and residences compatible with the area's retail character. The project promotes pedestrian activity with transit to access. The site is separated from lower density residential areas by physical edges and less-intense commercial areas.

7. Neighborhood Plan/Precedential Effect, SMC 23.34.008(C) and (D). The site is within the Northgate Neighborhood Plan, which provides for concentrated development supported by transit, which is surrounded by health single-family neighborhoods.

- NG-G2: A thriving, vital, mixed-use center of concentrated development surrounded by healthy neighborhood residential areas transformed from an underutilized, auto oriented office/retail area.

- NG-P.8.5 (Support future potential rezones to higher-intensity designations in the North Core Subarea. In considering such rezones, pay particular attention to the development of an environment that creates a network of pedestrian connections and that encourages pedestrian activity, among other considerations associated with a rezone review) [14]

The rezone furthers mixed use vitality by providing affordable high-density housing supported by transit, including the Northgate transit center which is a 10-15 minute walk away. The rezone would not adversely affect the nearby Neighborhood Residential or Lowrise zones. The less intensive residential zones are physically separated from the NC3 zoning by natural physical buffers and right-of-way. Also, the zoning itself is not changing, only the height limit, and that is by ten feet.[15]

8. Zoning Principles, SMC 23.34.008(E). The site is separated from the NR zone to the east by the existing bioretention pond, Victory Creek Park and Thornton Creek, and 12th Ave NE which runs in a north-south direction. The site is separated from the LR2 zone to the south by NE Northgate Way, a major arterial with sidewalks, planting strips, and a 73-76 foot right-of-way width.

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[13] SMC 23.34.008(B).
[14] *See also* NG-G3, NG-G4, NG-P6, NG-P7, NG-G7.
[15] *See also* Conclusion 10.

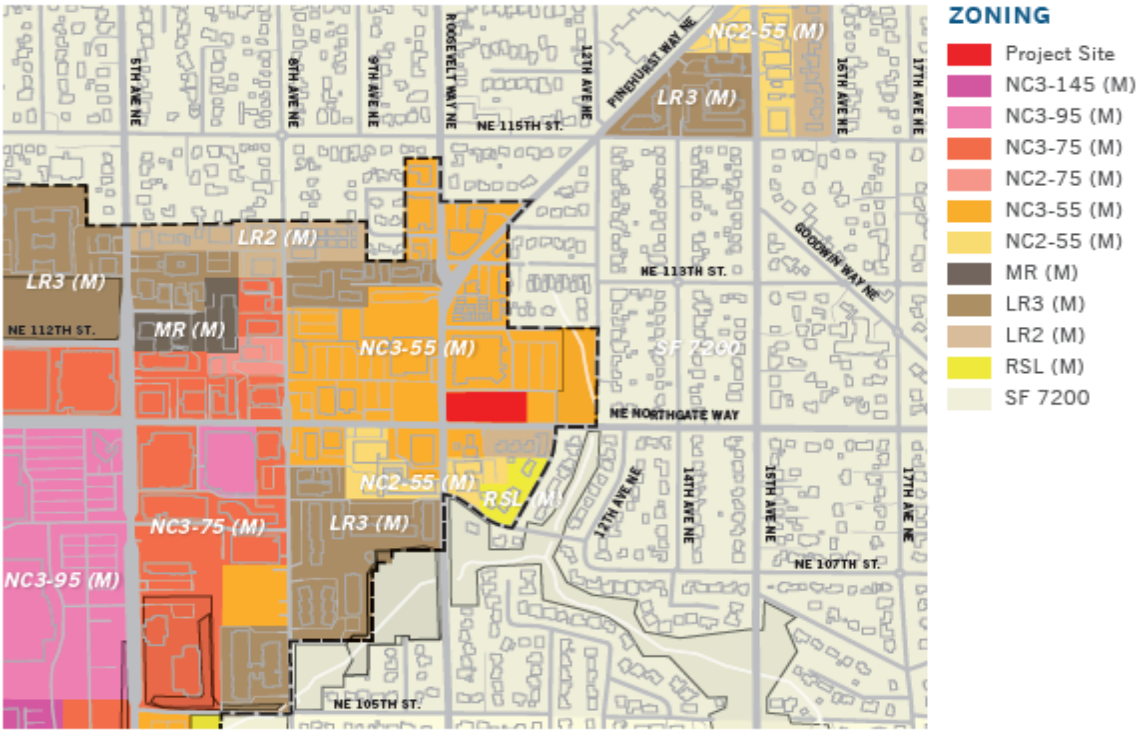
9. Impact Evaluation, SMC 23.34.008(F). The rezone meets the compatibility standards for the surrounding neighborhood and scale. Housing capacity is increased and the project will be adequately supported by public services and infrastructure, including pedestrian amenities and sidewalks. There is adequate street access, street capacity, transit, utility, and sewer capacity. Some comments raised concerns about parking adequacy while other comments appreciated the spaces provided. The project improves area aesthetics and environmental conditions. It positively contributes to the need for housing and low-income housing. 31 of the 184 new affordable transit-oriented housing units are possible due to the increased building height. No market-rate housing is provided. The project does remove Jiffy Lube's 3,488 square feet and Patty's Egg Nest's 3,609 square feet of commercial space. To help offset the lost employment, the project is providing 6,770 square feet of commercial space.

10. Changed Circumstances, SMC 23.34.008(G). Changed circumstances are considered though they need not be demonstrated. The area has seen increasing density and heights. For example, a 2022 rezone on two parcels immediately south upzoned a development site from LR3(M) to MR(M1), with an 80-foot height limit. With the 2019 city-wide rezone, the site's height limit went from 40 to 55. Also in 2019, Northgate Mall redevelopment was approved. A network of new street and pedestrian corridors breaks up the site's superblock scale, while providing access to new and existing buildings. A half mile to the west is the Northgate Link Light Rail, with the station and its alignment approved by Council in 2013. And, to address affordable housing challenges, the City adopted mandatory housing affordability legislation in 2015 and 2016. The rezone's allowance for increased pedestrian friendly housing is in keeping with these changes.

11. Overlay Districts and Critical Areas, SMC 23.34.008(H) and (I). The site is within the Comprehensive Plan's Northgate Urban Center and Northgate Overlay District. These designations aim to create a pedestrian friendly area supportive of commercial development, protect the residential neighborhood character, and support Northgate as a regional transportation hub. The project, with its added affordable housing, improved pedestrian environment, and supporting commercial development is consistent. A portion of the site's far east side was potentially identified as including wetland buffering for an off-site QFC bioretention pond. It is not a critical area and not connected with the proposal, as peer reviewed analysis confirmed.

12. Heights, SMC 23.34.009. The proposal is for a ten-foot increase. The height is consistent with NC3 zone function, which supports a pedestrian oriented shopping district and residences compatible with the area's retail character. The limited increase follows area topography and will have limited view impacts. The rezone and project include buffers coupled with height and scale transitions. The increase is compatible with the surrounding area and with Northgate Area Comprehensive Plan, and Northgate Urban Center and Overlay District. The below diagram depicts area heights.[16]

[16] Exhibit 28 (Power Point), p. 4; Exhibit 25 (Staff Report), p. 523 of PDF and 519 of paper (different diagram, similar information).



13. NC3 Designations, SMC 23.34.078. The site and project are well suited to the NC3 zoning criteria; it is already zoned NC3, as are most of the immediately surrounding properties. The zoning, with the added ten-feet in height, better supports housing affordability and pedestrian-oriented housing and commercial uses. With the improved pedestrian access, increase in affordable housing, and the area's supporting services and infrastructure, including transit service, the requested NC3-65 zoning fits within the neighborhood context.[17]

14. Conclusion. Weighing and balancing Ch. 23.34 SMC criteria together, the most appropriate zone designation for the site is NC3-65(M1) (Neighborhood Commercial-3), with a PUDA. With the proposal's pedestrian and commercial focus, additional housing, and design considerations, this zoning would better fulfill Comprehensive Plan objectives for the area.

RECOMMENDATION

The Hearing Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA, with the Department's recommended conditions, Attachment 1.

Entered August 24, 2023.

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Susan Drummond, Deputy Hearing Examiner

[17] *See* Conclusion 6.

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.

Under SMC 23.76.054, a person who submitted comment to the Department or 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 Zoning, c/o Seattle City Clerk
Physical Address: 600 Fourth Avenue, Floor 3, Seattle, WA 98104
Mailing Address: P.O. Box 94728, Seattle, WA 98124-4728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Review code language for exact language and requirements, which are only summarily described above. Consult the City Council committee named above for further information on the Council review process.

Attachment 1
Conditions

DEPARTMENT IMPOSED CONDITIONS – DESIGN REVIEW

Prior to MUP Permit Issuance

1. Add greater transparency to the west facing lobby wall located just to the north of the vestibule.

2. Create seating nodes along NE Northgate Way by forming a more 'L' shape seating configuration with some seating facing the front entry interspersed with other site features such as bollards, planters, or trash containers to break up the long expanse of bench seating into smaller seating nodes.

3. Modify the large building sign on the west building façade to be of a scale that is consistent with the scale and character of the area.

Prior to Certificate of Occupancy

4. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner.

For the Life of the Project

5. 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.

RECOMMENDED CONDITIONS – REZONE, FOR PUDA INCLUSION

Prior to Issuance of a Master Use Permit

6. The rezone includes a Mandatory Housing Affordability designation of M1.

7. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58B and/or 23.58C.

Prior to Issuance of a Building Permit

8. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3039050-LU.

RECOMMENDED CONDITIONS – SEPA

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

9. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website.

10. The plans shall show the tree preservation plan, consistent with the arborist report on file with SDCI, prepared by Tree Solutions, dated February 25, 2022.

CITY OF SEATTLE
ANALYSIS DECISION AND RECOMMENDATION OF THE DIRECTOR OF THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

Project Number: 3039050-LU

Applicant Name: Andrew Kluess, Caron Architect

Address of Proposal: 1000 NE Northgate Way

SUMMARY OF PROPOSAL

Council Land Use Action to allow a contract rezone for a parcel of land from Neighborhood Commercial 3 with a 55-foot height limit and Mandatory Housing Affordability overlay (NC3-55' (M)) to a Neighborhood Commercial 3 with a 65-foot height limit and Mandatory Housing Affordability overlay (NC3-65' (M1)). Project includes future construction of a 7-story, 184-unit apartment building with retail. Parking for 88 vehicles proposed. Existing buildings to be demolished. Early Design Guidance conducted under 3039547-EG. (CF 314513)

The following approvals are required:

Design Review with Departures (Seattle Municipal Code - SMC 23.41)
Departures are listed near the end of the Design Review Analysis in this document.

Contract Rezone (SMC 23.34): Recommendation to Hearing Examiner

SEPA - Environmental Determination (SMC 25.05)

SEPA – Recommendation to City Council for mitigation (SMC 25.05)

SEPA DETERMINATION:
Determination of Non-significance

☐ No mitigating conditions of approval are imposed with the DNS but are recommended for consideration by City Council.

☒ Pursuant to SEPA substantive authority provided in SMC 25.06.660, SDCI recommends conditions to mitigate environmental impacts.

BACKGROUND

Mandatory Housing Affordability for Residential Development

In November of 2015, the City Council passed Ordinance 124895 creating a new Land Use Code Chapter 23.58B, *Affordable Housing Impact Mitigation Program Development Program for Commercial Development* (MHA-C). The Council followed this, in August of 2016, with Ordinance 125108 creating a new Land Use Code Chapter 23.58C, *Mandatory Housing Affordability for Residential Development* (MHA-R). The purpose of these Chapters is to implement an affordable housing incentive program authorized by RCW 36.70A.540. Chapters 23.58B and 23.58C specify a framework for providing affordable housing in new development, or an in-lieu payment to support affordable housing, in connection with increases in commercial or residential development capacity. Chapter 23.58B and 23.58C are applicable as follows: where the provisions of a zone specifically refer to Chapter 23.58C; or through the terms of a contract rezone in accordance with Section 23.34.004.

SITE AND VICINITY

Site Zone: Neighborhood Commercial with a 55' height limit [NC3-55(M)]

Nearby Zones: North) NC3-55(M)
(South) NC3-55(M) / Lowrise 2 (M) [LR2 (M)]
(East) NC3-55(M)
(West) NC3-55(M)

Overlay Districts: Northgate Overlay District & Urban Center

Project Area: 40,285 Square Feet (sq. ft.)

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

Environmental Critical Area (ECA): The most eastern one-fourth portion of the eastern property is encumbered by wetland buffer.

Current And Surrounding Development; Neighborhood Character: Access:

The proposal site, located within the Northgate neighborhood, contains a restaurant (Patty's Eggnest), an automotive related use (Jiffy Lube) and accessory parking. Surrounding zoning and development consists of Neighborhood Commercial, lowrise and single-family zoning with residential and commercial development ranging in height from one and two stories for older develop and five stories for newer development. The area near the proposal site generally consists of commercial development to the west and south with an intermingling of multifamily residential development to the far west, north and south with single-family residential development to the far east. Located immediately to the north of the project site is QFC

Grocery Store which shares an access easement with the project site with the curb cut on Roosevelt Way NE straddling the two properties. Located to the north of QFC is the recently completed Noren Pinehurst Townhouses and Live Work Units. An automobile service facility with a gasoline station and mini mart is located at the southeast corner of NE Northgate Way and Roosevelt Way NE. Located on the southwest corner is Walgreens pharmacy with several other commercial establishments located further west. Located to the west of the proposal site on the west side of Roosevelt Way NE is the Northgate Village shopping area which includes TJ Maxx department store and other retail establishment located amidst surface parking. To the east is a bio-retention pond and beyond the pond is Victory Creek Park stretching along the west side of 12th Ave NE.

Roosevelt Way NE is designated arterial street and a Special Landscape Arterial defined in the Northgate Overlay District (SMC 23.71.012). Roosevelt Way NE has sidewalks and a bus stop at the corner of NE Northgate Way near the share access easement into the QFC Grocery Store.

From a larger context, other notable development in the area includes Hubbard Homestead Park, located on the east side of 5th Ave NE, with the Northgate North shopping center (including Target Department/Best Buy department store complex) located to the south, on the south side of NE 112th St. and fronting NE Northgate Way. Located on the south side of NE Northgate Way is Northgate Mall. Located to the south of the project site on the south side of NE Northgate Way is the 5-story Northgate Apartments, built in 2008 and immediately adjacent to the 5-story Enclave Apartments built in 2014.

PUBLIC COMMENT:

The public comment period ended on December 28, 2022, and was revised to March 6, 2023, as result of the updated project description. In addition to the comments received through the Design Review process, other comments were received and carefully considered, to the extent that they raised issues within the scope of this review. This area of public comment related to potential impacts to parking, pedestrian safety, and traffic impacts along share right of way.

I. ANALYSIS – ADMINISTRATIVE DESIGN REVIEW

ADMINISTRATIVE EARLY DESIGN GUIDANCE September 1, 2022

The design review packets include information presented through design review and are available online by entering the record numbers at this website:
http://www.seattle.gov/DPD/aboutus/news/events/DesignReview/SearchPastReviews/default.aspx

The packet is also available to view in the file, by contacting the Public Resource Center at SDCI:

Mailing Address of Proposal:	**Public Resource Center** 700 Fifth Ave., Suite 2000 P.O. Box 34019 Seattle, WA 98124-4019
Email:	PRC@seattle.gov

PUBLIC COMMENT

SDCI staff received the following design related comments:

- Several comments support the project as it will help grow Northgate, meet housing and climate goals along with aligning with light rail.
- The design fits the neighborhood and doesn't have anything objectionable.
- Opposes the development given the vacuum of information and consideration for the safety and security of associates, customers, and residents.
- The building will be too tall for its proposed location, and it should be set back further from the Northgate Way arterial due to the building's proposed scale.
- Excited to see a family oriented affordable housing project come forward with lots of greenery that can help connect the area.

SDCI received non-design related comments concerning parking, zoning, and hydrology.

One purpose of the design review process is for the City to receive comments from the public that help to identify feedback and concerns about the site and design concept, identify applicable citywide and neighborhood design guidelines of highest priority to the site and explore conceptual design, siting alternatives and eventual architectural design. Concerns with off-street parking, traffic and construction impacts are reviewed as part of the environmental review conducted by SDCI and are not part of this review. Concerns with building height calculations and bicycle storage standards are addressed under the City's zoning code and are not part of this review.

Any public comments submitted in writing for this project will be viewed using the following link and entering the record number (3039547-EG): http://web6.seattle.gov/dpd/edms/

PRIORITIES & STAFF RECOMMENDATIONS

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the following siting and design guidance.

1. **Massing/Programming:**
    a. Staff is concerned with the potential for high volumes of automobile traffic concentrated at entry point into the site via a +/-22-foot-wide shared access easement that will need to accommodate, grocery store patrons, residential traffic entering or leaving the site, ride share, delivery, childcare drop off vehicles, and loading dock and solid waste removal vehicular traffic. Staff is also worried about increased conflicts between motorists, and pedestrian and bike traffic as well as possible traffic queuing into Roosevelt Way NE. As such Staff requests alternative design approaches or strategies for reducing air quality, noise, and other impacts to the day care center and playground-as well as other strategies for reducing automobile and pedestrian and bike conflicts. One such strategy ought to include swapping the residential entry and lobby with the childcare center so that it is further away from the easement access point, auto loading and delivery activities and potential poor air quality and noise. This strategy could also include the added benefit of taking advantage of the bioretention pond as an educational feature as well as closer proximity to Victory Creek Park**. (CS2-A-1, CS2-C-2, CS2-C-2, CS2-D, CS2-I-I, DC1-II-ii, DC1-IV-i)**
    b. Staff supports the continued exploration of Options 2 and 3 which both feature a strong street presence at the corner of Northgate Way and Roosevelt Way NE while providing a prominent corner gateway feature and large courtyard along NE Northgate Way. In its continued exploration, the applicant shall show how elements of the two options can be combined to create a hybrid alternative that relocates the daycare center away for the trash room, loading dock and vehicle drop off area. **(CS1-B-1, CS1-C, CS2-A-1, CS2-A-2, CS2-C-2, CS2-III, CS2-D-1, DC2-A)**
    c. Staff supports the idea of providing the residential lobby and entry along the Northgate Way frontage but questions why there doesn't appear to be greater transparency or a stronger indoor/outdoor connection with the large ground level courtyard. The applicant shall provide details for the residential entry and lobby and their relationship with the large courtyard space. **(PL2-A-1, PL2-C-1, PL3-A-2, DC1-II-ii, DC3-A-1)**
    d. Staff suggests further exploration of the entry transition being rotated so that it has a greater visual or physical connection to the ground floor courtyard. **(DC3-A-1, DC3-C-2)**
    e. How does the preferred massing option relate to the adjacent grocery store and the vest pocket park to the east? As such the applicant team shall provide additional graphic information demonstrating the relationship to the adjacent land uses including the grocery store and the vest pocket park to the east. This information should also include window relationships, balconies and so on. **(CS2-D-5, PL3-I, DC3-C-2, DC2-C-3)**
    f. The tripartite façade facing Northgate Way has two lengthy sections with little modulation at the upper levels. The one recessed column of balconies represents a credible beginning. The rest of these two major façade segments should possess a series of either recessed balconies or a clear set of volumetric elements that reduce the façade segments to clear, rhythmic cadences. Secondary elements such as

Juliette balconies and over framing would not be adequate to reduce the 268 linear feet that two of the facade segments represent. The lengthy street level façade segments will need to possess incident and interest such as art elements, interesting materials in addition to responding to the conditions (busy pedestrian corner, landscaped court, residential entry/amenity area next to bio-retention pond/park). **(PL3-C-1, PL1-I-I, DC3-B-3, DC3-C-1)**

2. Design Concept:

a. Staff generally supports the concept of the courtyard and fitness center which face NE Northgate Way. Staff would like to see greater development of the courtyard area and how it connects to the various indoor spaces. SDCI advises against developing a series of outdoor warrens for each of the apartment units facing the open space. How is the edge of the court and the right of way manifested? **(PL3-C-1, PL1-I-I, DC3-B-3, DC3-C-1)**
b. The ground-level residential units should have a clear relationship to the internal courtyards. The design team shall provide vignettes and other details of the interior courtyard space depicting landscaping, fence design if any, paving material, seating, and lighting where applicable. **(PL1-1-b, PL1-2-b, PL1-2-c, PL1-3-a, PL1-I-i, DC3-A-1, DC3-B-1 DC2-I ii.)**
c. The location of the Daycare Center and Playground in relationship to the trash rooms and QFC loading dock is problematic. The applicant shall explore alternative layouts that better meet the design guidelines. **(CS2-D-5, CS3-A-1, CS3-A-4, DC3-IV)**

3. Site Planning and Circulation:

a. Staff requests additional design details which includes the type and location of landscaping elements, ground plane treatments, fixtures and furnishings, and lighting alluded to in precedent imagery. **(PL2-D-1, DC1-B-1, DC1-B-1, DC4-D, DC3-IV**
b. The design team shall provide additional details for how automobiles enter the lower level parking area, including turning radii, alert systems, gate detail, etc. **(DC1-B-1)**
c. The applicant team shall provide details and the location of short-term bike parking thoughtfully designed for ease of use. In addition, Staff requests more information on the long-term bike storage for the Recommendation phase of review. **(PL4-B-1, PL4-B-2, PL4-B-3, PL1-3-h)**
d. The applicant team shall provide a roof plan that demonstrates how the space will function, including the area labeled playground as seen in the EDG packet as well as any fixtures and furnishings associated with that space. With the possibilities of panoramic views from the roof, show how the occupiable spaces take advantage of the vistas. **(CS1-E2)**
e. Staff request additional information for all service deliveries and daycare drop off and pick up schemes, including details showing the condition of the street edge and entry transition into the daycare facility. **(PL4, PL4-B-1, PL1-3-h)**

f. While it doesn't appear to have an impact, the applicant team shall show the relationship of the building height and potential shadows cast on the nearby Victory Creek Park. **DC2-A-2, DC2-C-3**

4. Materials and Signage:

a. Materials, window sizes and depths and façade treatments will be important to the success of the final preferred massing option. The applicant shall continue its exploration of different textures and materials designed to extend into the interior courtyard areas of the building façade as well as the exteriors to create visual interest and continuity for the entire project. **(DC2-A-2, DC2-B-1, DC2-C-1, DC2-D-1, DC2-D-2)**
b. Signage will be critical for wayfinding purposes especially as it relates to the daycare center, courtyard, bike and pedestrian circulation, and service deliveries. Signage should add interest to the streetscape, relate to the design concept, and convey pedestrian access into the site. The applicant team shall provide a conceptual signage plan for the next stage of the review. **(PL2-D, DC4-B, DC4-D)**
c. Per the design guidelines, the exterior building materials should have a human scale which helps people relate to the size of the building. Currently it is difficult to see elements of the building that relate to a human scale. **(DC2-B, DC2-I)**

ADMINISTRATIVE RECOMMENDATION May 17, 2023

PUBLIC COMMENT

SDCI received the following written comments after the completion of the Early Design Guidance phase.

- Support for the proposal.
- Suggested that the new proposal will block natural light.
- Objects to the seven-story height of the proposed building and the lack of a transition to lower height residential areas.

SDCI received non-design related comments which related primarily to concerns about traffic safety, traffic congestion, pedestrian safety, loss of existing businesses, removal of 3-4 curb cuts to QFC, change in proposed building uses, housing affordability, public parks, climate change, proposed parking, and on street parking impacts.

One purpose of the design review process is for the City to receive comments from the public that help to identify feedback and concerns about the site and design concept, identify applicable Seattle Design Guidelines and Neighborhood Design Guidelines of highest priority to the site and explore conceptual design, siting alternatives and eventual architectural design.

All public comments submitted in writing for this project can be viewed using the following link and entering the Project Number: http://web6.seattle.gov/dpd/edms/

PRIORITIES & STAFF RECOMMENDATIONS

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, Staff provide the following recommendations.

1. **Massing/Programming:**
    a. Staff recommends approval of the developed design which reflects the EDG preferred Option 3. This design features a strong street presence with a large courtyard along Northgate Way and a prominent gateway feature at the corner of Northgate Way and Roosevelt Way NE. Staff also supports the removal of the daycare center previously located adjacent to the trash room, loading dock and vehicle drop off areas depicted in the previous EDG packet. **(CS1-B-1, CS1-C, CS2-A-1, CS2-A-2, CS2-C-2, CS2-III, CS2-D-1, PL3-I, DC2-A)**
    b. Staff recommends approval of refined building facades facing Victory Creek Park and QFC grocery store to the north, now designed with varying sections that feature recesses, material transitions, or unique fenestration patterns. These moves are designed to help break up the length of the building and add visual texture and interest to the façade per Northgate supplementary design guidelines. **(CS2-D-5, CS2-IV, PL3-I, DC3-C-2, DC2-C-3)**
    c. Staff recommends approval of the placement of the residential lobby and entry along the Northgate Way frontage and how the lobby has been rotated ninety degrees to face the courtyard for better engagement with the public space as well as the addition of seating in the courtyard. **(PL2-A-1, PL2-C-1, PL3-A-2, DC1-II-ii, DC3-A-1)**
    d. Staff recognizes public comment concerns related to transition between the proposed development and lower height buildings nearby and the concern about shadows cast by the proposal. Staff recommends approval of the newly introduced upper-level setbacks on the south and north facades designed to provide a unique datum that breaks up the building height between the east and west masses, ease the transition to lower height context, and reduce shadows on nearby properties. Staff also recommends approval of the material changes which aid in establishing the ganged window appearance vertically, and horizontally, resulting in a better visual rhythmic cadence. **(DC2-A-2, DC2-B-1, DC2-C-1, DC2-D-1, DC2-D-2)**

2. **Site Planning and Circulation:**
    a. Staff recommends approval of the mid-block pedestrian connection located along the eastern building façade allowing for a convenient connection between NE Northgate Way, QFC and points beyond and the pedestrian walkway located along the northern building façade and access easement, which runs the full length of the building. **(CS2-D-5, PL1-I, PL1-II, PL2-III, PL3-I, DC3-C-2, DC2-C-3)**

b. Staff recommends approval of the relocated fitness center to the north side of the building, and the further refined plaza area to the south. **(PL3-C-1, PL1-I-I, DC3-B-3, DC3-C-1)**
c. Staff is concerned that there are no opportunities for a ride share or parcel pick-up and delivery space and suggests that the design team consider adding a pull out, curb cut, parking space or other accommodations, potentially along the northern building façade, along the shared driveway easement and within proximity of the bicycle parking room and the secondary entryway. **(DC1-C)**
d. Staff recommends approval of the added ground level landscaping and paving details, and seating at the courtyard designed to the engage the public realm while establishing a degree of privacy for ground-level living units. Staff agrees that the courtyard's central location will allow users a brief respite while also aiding in breaking down the perceived length of the two building masses. To promote pedestrian interaction through activation and through visual connection between the outdoor and indoor areas, Staff recommends a condition of approval to increase transparency at the west facing lobby wall located just to the north of the vestibule. **(PL1-I, PL3-I, PL3-II)**
e. Staff does not support the lone bench seat facing NE Northgate Way at the far west edge of the plaza, which is disconnected from the plaza seating and entry. Staff recommends a condition to create seating nodes along NE Northgate Way by creating more 'L' shape seating configuration with some seating facing the front entry interspersed with other site features such as bollards, planters, or trash containers to break up the long expanse of bench seating into smaller seating nodes. **(DC3-A-1, DC3-C-2, DC3-IV)**
f. Staff recommends approval of the rooftop landscaping details including the play turf area, seating, and other fixtures and furnishings. **(PL2-D-1, DC1-B-1, DC1-B-1, DC3-IV, DC4-D)**
g. Staff appreciates the added details describing how motorized and non-motorized traffic enters the site via a shared driveway easement, and the garage entry points at the buildings northeast corner. As such, Staff recommends approval of the location and design of the garage access point, the roll-up door concept, as well as the lower-level parking area, and the adherence to sight triangle requirements. **(DC1-B-1, CS2-A-2, CS2-C-2, CS2-III, CS2-D-1, DC2-A)**
h. Staff recommends approval of the design of the short-term bike parking which includes 'U' bike-racks with powder-coated finish along with a double-decker parking rack system that will be provided for long-term parking within the building in a secured room. The design team suggested that charging stations can be provided for electric bikes but provided no specific detail nor has Staff asked for any. **(PL4-B-1, PL4-B-2, PL4-B-3, PL1-3-h)**
i. Staff acknowledges public comment raising concerns with shadows. Staff agrees with the results of the design team's shadow assessment as it relates to the proposed building height and potential shadows cast on Victory Creek Park, demonstrating that the design minimizes shadows on adjacent sites. **(CS1-B-2)**

3. Materials and Signage

a. Staff recommends approval of the material changes which aid in establishing the ganged window appearance, resulting in a better visual rhythmic cadence. **(DC2-A-2, DC2-B-1, DC2-C-1, DC2-D-1, DC2-D-2)**
b. Staff recommends approval of the updated materials palette which includes varying colors of fiber cement board, wood laminate siding, board form concrete, rust color metal panel siding, and their application and placement. **(DC2-B, DC2-I)**
c. While Staff appreciates the wayfinding signage concept, Staff does not support the large vertical building sign attached to the west facing building façade. The sign is out of scale with the rest of the building and conflicts with the Northgate Design Guidelines. Staff recommends a condition of approval to modify the building identification sign to be of a scale that is consistent with the scale and character of the area. **(PL2-D, DC4-B, DC4-I)**

DEVELOPMENT STANDARD DEPARTURES

SDCI's initial recommendation on the requested departure(s) is based on the departure's potential to help the project better meet these design guideline priorities and achieve a better overall project design that could be achieved without the departure(s).

At the time of the Recommendation report, the following departure(s) were requested:

1. **Maximum width and depth of structures (SMC 23.71.036 Table A)** The code states that the maximum width and depth requirements of this Section 23.71.036 shall apply only to portions of a structure within 50 feet of a lot line abutting, or directly across a street right-of-way that is less than 80 feet in width, from a less intensive residential zone as provided in Table A for 23.71.036.

   Part of the south façade of this proposal is subject to this requirement, with a maximum width of 60 feet and a maximum depth of 30.7 feet. The applicant proposes a maximum width of 167.2 feet and a maximum depth of 50 feet in this area.

   The applicant's rationale is that the proposed massing design successfully provides enough setbacks along the busy arterial NE Northgate Way, opposite the LR2 zone to fulfill both an adequate zone transition, while retaining the urban infill pattern for which the major pedestrian street strives to develop. The applicant also notes that the setback for the project proposal includes a large courtyard along the arterial as well as a narrow (and unarticulated) thru-block pedestrian connection that joins NE Northgate Way to the shared easement on the north side of the site.

   Staff recommends approval of the departure request as the resultant design better meets the intent of design guidelines. **(CS2 Urban Pattern and Form, CS2-III Height, Bulk and**

Scale Compatibility, PL1-I-i. Open Space, DC2-B-1 Façade Composition, DC3-A Building-Open Space Relationship, DC2-II. Upper Stories)

2. **Street-level uses (SMC 23.47A.005.C.1)** The code states that in all NC and C zones, residential uses may occupy, in the aggregate, no more than 20 percent of the street-level street facing facade at NE Northgate Way at this location.

   The applicant is requesting a departure to allow 51.5 percent of the NE Northgate Way, street frontage to be residential use.

   The applicant proposes to focus the non-residential uses on Roosevelt Way NE and the western portion of the NE Northgate Way façade, to better respond to the concentration of retail uses to the west of the site. They note this is a transition zone between more extensive commercial development to the west and single-family residential use to the east. Based on the proposed site design and the placement of the commercial space at the corner of the building, the amenity space, residential and courtyard, Staff recommends approval of the departure request as the resultant design better meets the intent of design guidelines. **(**PL3. Street-Level Interaction, **PL1-I-i. Open Space, DC2-B-1 Façade Composition, DC3-A Building-Open Space Relationship)**

Staff Note: The following request is not a Design Review Departure, although it is identified as Departure in the Recommendation packet. SDCI Zoning Reviewers will determine the outcome of this Type 1 decision. They will consider design review recommendations as part of their decision.

TYPE 1 Decisions

Type I Decisions per SMC Chapter 23.47A, are made by SDCI as part of the Master Use Permit (MUP) review.

DRIVEWAY SLOPE SMC 23.54.030.D.3 - The applicant is requesting to be allowed to use a parking ramp with a maximum slope of 29.5% up from the 23.2% which was initially sought during EDG, and which still exceeds the code maximum of 15.0%.

PARKING SPACE REQUIREMENTS SMC 23.54.030.B.1.b- The applicant is requesting to be allowed to target 88 percent of the proposed parking stalls to be medium size, which exceeds the minimum of 60 percent per code.

DESIGN REVIEW GUIDELINES

The Seattle Design Guidelines and Neighborhood Design Guidelines recognized by Staff as Priority Guidelines are identified above. All guidelines remain applicable and are summarized below. For the full text please visit the Design Review website.

CONTEXT & SITE

CS1 Natural Systems and Site Features: Use natural systems/features of the site and its surroundings as a starting point for project design.

CS1-C TOPOGRAPHY

CS1-C-1. Land Form: Use the natural topography and/or other desirable land forms or features to inform the project design.

CS1-C-2. Elevation Changes: Use the existing site topography when locating structures and open spaces on the site. Consider "stepping up or down" hillsides to accommodate significant changes in elevation.

CS1-D Plants and Habitat

CS1-D-2. Off-Site Features: Provide opportunities through design to connect to off-site habitats such as riparian corridors or existing urban forest corridors. Promote continuous habitat, where possible, and increase interconnected corridors of urban forest and habitat where possible.

CS2 Urban Pattern and Form: Strengthen the most desirable forms, characteristics, and patterns of the streets, block faces, and open spaces in the surrounding area.

CS2-A Location in the City and Neighborhood

CS2-A-1. Sense of Place: Emphasize attributes that give a distinctive sense of place. Design the building and open spaces to enhance areas where a strong identity already exists, and create a sense of place where the physical context is less established.

CS2-A-2. Architectural Presence: Evaluate the degree of visibility or architectural presence that is appropriate or desired given the context, and design accordingly.

CS2-B Adjacent Sites, Streets, and Open Spaces

CS2-B-1. Site Characteristics: Allow characteristics of sites to inform the design, especially where the street grid and topography create unusually shaped lots that can add distinction to the building massing.

CS2-B-2. Connection to the Street: Identify opportunities for the project to make a strong connection to the street and public realm.

CS2-C Relationship to the Block

CS2-C-3. Full Block Sites: Break up long facades of full-block buildings to avoid a monolithic presence. Provide detail and human scale at street-level and include repeating elements to add variety and rhythm to the façade and overall building design.

CS2-D Height, Bulk, and Scale

CS2-D-1. Existing Development and Zoning: Review the height, bulk, and scale of neighboring buildings as well as the scale of development anticipated by zoning for the area to determine an appropriate complement and/or transition.

CS2-D-2. Existing Site Features: Use changes in topography, site shape, and vegetation or structures to help make a successful fit with adjacent properties.

CS2-D-3. Zone Transitions: For projects located at the edge of different zones, provide an appropriate transition, or complement to the adjacent zone(s). Projects should create a step in perceived height, bulk, and scale between the anticipated development potential of the adjacent zone and the proposed development.

CS2-D-4. Massing Choices: Strive for a successful transition between zones where a project abuts a less intense zone.

CS2-D-5. Respect for Adjacent Sites: Respect adjacent properties with design and site planning to minimize disrupting the privacy of residents in adjacent buildings.

University Supplemental Guidance:

CS2-I Responding to Site Characteristics

CS2-I-i. Views along Burke Gilman Trail: For properties facing the Burke Gilman Trail, new buildings should be located to minimize impacts to views of Mount Rainier, Cascade Mountains, and Lake Washington, and allow for sunlight along the trail and increase safety and access.

CS2-IV Height, Bulk, and Scale

CS2-IV-i. Reduce Visual Bulk: Special attention should be paid to projects in Map 4 of the full Guidelines to minimize impacts of increased height, bulk and scale as stated in the Seattle Design Guideline. In order to reduce the impacts of apparent building height and bulk at specified zone edges listed above, the following alternatives should be considered:

1. Along zone edges and specified streets, step back upper floors above 40’, or modify the roofline to reduce the negative effects of the allowable height limit.
2. Along specified corridors, a gradual setback of the building’s arcade above 40’ in height from the street, alley or property line may be considered.
3. In exchange for setting back the building facade, the Board may allow a reduction in the open space requirement.
4. Access to commercial parking on corner lots should be sited and designed in a manner that minimizes impact on adjacent residential uses.

CS3 Architectural Context and Character: Contribute to the architectural character of the neighborhood.

CS3-A Emphasizing Positive Neighborhood Attributes

CS3-A-4. Evolving Neighborhoods: In neighborhoods where, architectural character is evolving or otherwise in transition, explore ways for new development to establish a positive and desirable context for others to build upon in the future.

PUBLIC LIFE

PL1 Connectivity: Complement and contribute to the network of open spaces around the site and the connections among them.

PL1-A Network of Open Spaces

PL1-A-1. Enhancing Open Space: Design the building and open spaces to positively contribute to a broader network of open spaces throughout the neighborhood.

PL1-A-2. Adding to Public Life: Seek opportunities to foster human interaction through an increase in the size and quality of project-related open space available for public life.

PL1-B Walkways and Connections

PL1-B-1. Pedestrian Infrastructure: Connect on-site pedestrian walkways with existing public and private pedestrian infrastructure, thereby supporting pedestrian connections within and outside the project.

PL1-B-2. Pedestrian Volumes: Provide ample space for pedestrian flow and circulation, particularly in areas where there is already heavy pedestrian traffic or where the project is expected to add or attract pedestrians to the area.

PL1-B-3. Pedestrian Amenities: Opportunities for creating lively, pedestrian oriented open spaces to enliven the area and attract interest and interaction with the site and building should be considered.

PL1-C Outdoor Uses and Activities

PL1-C-1. Selecting Activity Areas: Concentrate activity areas in places with sunny exposure, views across spaces, and in direct line with pedestrian routes.

PL1-C-2. Informal Community Uses: In addition to places for walking and sitting, consider including space for informal community use such as performances, farmer's markets, kiosks and community bulletin boards, cafes, or street vending.

PL1-C-3. Year-Round Activity: Where possible, include features in open spaces for activities beyond daylight hours and throughout the seasons of the year, especially in neighborhood centers where active open space will contribute vibrancy, economic health, and public safety.

University Supplemental Guidance:

PL1-I Residential Open Space

PL1-I-i. Active, Ground-Level Open Space: The ground-level open space should be designed as a plaza, courtyard, play area, mini-park, pedestrian open space, garden, or similar occupiable site feature. The quantity of open space is less important than the

provision of functional and visual ground-level open space. Successfully designed ground level open space should meet these objectives:

a. Reinforces positive streetscape qualities by providing a landscaped front yard, adhering to common setback dimensions of neighboring properties, and providing a transition between public and private realms.
b. Provides for the comfort, health, and recreation of residents.
c. Increases privacy and reduce visual impacts to all neighboring properties.

PL2 Walkability: Create a safe and comfortable walking environment that is easy to navigate and well-connected to existing pedestrian walkways and features.

PL2-A Accessibility

PL2-A-1. Access for All: Provide access for people of all abilities in a manner that is fully integrated into the project design. Design entries and other primary access points such that all visitors can be greeted and welcomed through the front door.

PL2-A-2. Access Challenges: Add features to assist pedestrians in navigating sloped sites, long blocks, or other challenges.

PL2-B. SAFETY AND SECURITY

PL2-B-1. Eyes on the Street: Create a safe environment by providing lines of sight and encouraging natural surveillance through strategic placement of doors, windows, balconies, and street-level uses**.**

PL2-B-2. Lighting for Safety: Provide lighting at sufficient lumen intensities and scales, including pathway illumination, pedestrian, and entry lighting, and/or security lights.

PL2-B-3. Street Level Transparency: Ensure transparency of street-level uses (for uses such as nonresidential uses or residential lobbies), where appropriate, by keeping views open into spaces behind walls or plantings, at corners, or along narrow passageways.

PL2-D Wayfinding

PL2-D-1. Design as Wayfinding: Use design features as a means of wayfinding wherever possible.

PL3 Street-Level Interaction: Encourage human interaction and activity at the street-level with clear connections to building entries and edges.

PL3-A Entries

PL3-A-1. Design Objectives: Design primary entries to be obvious, identifiable, and distinctive with clear lines of sight and lobbies visually connected to the street.

PL3-A-2. Common Entries: Multi-story residential buildings need to provide privacy and security for residents but also be welcoming and identifiable to visitors.

PL3-A-4. Ensemble of Elements: Design the entry as a collection of coordinated elements including the door(s), overhead features, ground surface, landscaping, lighting, and other features.

PL3-B Residential Edges

PL3-B-1. Security and Privacy: Provide security and privacy for residential buildings through the use of a buffer or semi-private space between the development and the street or neighboring buildings.

PL3-B-2. Ground-level Residential: Privacy and security issues are particularly important in buildings with ground-level housing, both at entries and where windows are located overlooking the street.

PL3-C Retail Edges

PL3-C-1. Porous Edge: Engage passersby with opportunities to interact visually with the building interior using glazing and transparency. Create multiple entries where possible and make a physical and visual connection between people on the sidewalk and retail activities in the building.

University Supplemental Guidance:

PL3-I Entrances Visible from the Street

PL3-I-i. Entrance Orientation: On Mixed Use Corridors, primary business and residential entrances should be oriented to the commercial street. Secondary and service entries should be located off the alley, side-street, or parking lots.

PL3-I-ii. Walkways Serving Entrances: In residential projects, except townhouses, it is generally preferable to have one walkway from the street that can serve several building entrances. At least one building entrance, preferably the main one, should be prominently visible from the street. To increase security, it is desirable that other entries also be visible from the street; however, the configuration of existing buildings may preclude this.

PL4 Active Transportation: Incorporate design features that facilitate active forms of transportation such as walking, bicycling, and use of transit.

PL4-A Entry Locations and Relationships

PL4-A-1. Serving all Modes of Travel: Provide safe and convenient access points for all modes of travel.

PL4-B Planning Ahead for Bicyclists

PL4-B-1. Early Planning: Consider existing and future bicycle traffic to and through the site early in the process so that access and connections are integrated into the project along with other modes of travel.

PL4-B-2. Bike Facilities: Facilities such as bike racks and storage, bike share stations, shower facilities and lockers for bicyclists should be located to maximize convenience, security, and safety.

PL4-B-3. Bike Connections: Facilitate connections to bicycle trails and infrastructure around and beyond the project.

DESIGN CONCEPT

DC1 Project Uses and Activities Optimize the arrangement of uses and activities on site.

DC1-A Arrangement of Interior Uses

DC1-A-1. Visibility: Locate uses and services frequently used by the public in visible or prominent areas, such as at entries or along the street front.

DC1-A-2. Gathering Places: Maximize the use of any interior or exterior gathering spaces.
DC1-A-3. Flexibility: Build in flexibility so the building can adapt over time to evolving needs, such as the ability to change residential space to commercial space as needed.
DC1-A-4. Views and Connections: Locate interior uses and activities to take advantage of views and physical connections to exterior spaces and uses.

DC1-B Vehicular Access and Circulation

DC1-B-1. Access Location and Design: Choose locations for vehicular access, service uses, and delivery areas that minimize conflict between vehicles and non-motorists wherever possible. Emphasize use of the sidewalk for pedestrians, and create safe and attractive conditions for pedestrians, bicyclists, and drivers.

DC1-C Parking and Service Uses

DC1-C-1. Below Grade Parking: Locate parking below grade wherever possible. Where a surface parking lot is the only alternative, locate the parking in rear or side yards, or on lower or less visible portions of the site.
DC1-C-2. Visual Impacts: Reduce the visual impacts of parking lots, parking structures, entrances, and related signs and equipment as much as possible.
DC1-C-3. Multiple Uses: Design parking areas to serve multiple uses such as children's play space, outdoor gathering areas, sports courts, woonerf, or common space in multifamily projects.
DC1-C-4. Service Uses: Locate and design service entries, loading docks, and trash receptacles away from pedestrian areas or to a less visible portion of the site to reduce possible impacts of these facilities on building aesthetics and pedestrian circulation.

DC2 Architectural Concept: Develop an architectural concept that will result in a unified and functional design that fits well on the site and within its surroundings.

DC2-A Massing

DC2-A-1. Site Characteristics and Uses: Arrange the mass of the building taking into consideration the characteristics of the site and the proposed uses of the building and its open space.
DC2-A-2. Reducing Perceived Mass: Use secondary architectural elements to reduce the perceived mass of larger projects.

DC2-B Architectural and Facade Composition

DC2-B-1. Façade Composition: Design all building facades—including alleys and visible roofs— considering the composition and architectural expression of the building as a whole. Ensure that all facades are attractive and well-proportioned.
DC2-B-2. Blank Walls: Avoid large blank walls along visible façades wherever possible. Where expanses of blank walls, retaining walls, or garage facades are unavoidable, include uses or design treatments at the street level that have human scale and are designed for pedestrians.

DC2-C Secondary Architectural Features

DC2-C-1. Visual Depth and Interest: Add depth to facades where appropriate by incorporating balconies, canopies, awnings, decks, or other secondary elements into the

façade design. Add detailing at the street level in order to create interest for the pedestrian and encourage active street life and window shopping (in retail areas).
DC2-C-2. Dual Purpose Elements: Consider architectural features that can be dual purpose— adding depth, texture, and scale as well as serving other project functions.
DC2-C-3. Fit With Neighboring Buildings: Use design elements to achieve a successful fit between a building and its neighbors.

DC2-D Scale and Texture

DC2-D-1. Human Scale: Incorporate architectural features, elements, and details that are of human scale into the building facades, entries, retaining walls, courtyards, and exterior spaces in a manner that is consistent with the overall architectural concept.
DC2-D-2. Texture: Design the character of the building, as expressed in the form, scale, and materials, to strive for a fine-grained scale, or "texture," particularly at the street level and other areas where pedestrians predominate.

University Supplemental Guidance:

DC2-I Architectural Elements and Materials

DC2-I-i. Modulate Facade Widths: On Mixed Use Corridors, consider breaking up the façade into modules of not more than 50 feet (measured horizontally parallel to the street) on University Way and 100 feet on other corridors, corresponding to traditional platting and building construction. (Note: This should not be interpreted as a prescriptive requirement. Larger parcels may characterize some areas of the University Community, such as lower Roosevelt.)

DC3 Open Space Concept Integrate open space design with the design of the building so that each complements the other.

DC3-A Building-Open Space Relationship

DC3-A-1. Interior/Exterior Fit: Develop an open space concept in conjunction with the architectural concept to ensure that interior and exterior spaces relate well to each other and support the functions of the development.

DC3-C Design

DC3-C-1. Reinforce Existing Open Space: Where a strong open space concept exists in the neighborhood, reinforce existing character and patterns of street tree planting, buffers, or treatment of topographic changes. Where no strong patterns exist, initiate a strong open space concept that other projects can build upon in the future.
DC3-C-2. Amenities/Features: Create attractive outdoor spaces suited to the uses envisioned for the project.
DC3-C-3. Support Natural Areas: Create an open space design that retains and enhances onsite natural areas and connects to natural areas that may exist off-site and may provide habitat for wildlife.

DC4 Exterior Elements and Finishes: Use appropriate and high-quality elements and finishes for the building and its open spaces.

DC4-A Exterior Elements and Finishes

DC4-A-1. Exterior Finish Materials: Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

DC4-A-2. Climate Appropriateness: Select durable and attractive materials that will age well in Seattle's climate, taking special care to detail corners, edges, and transitions.

DC4-B Signage

DC4-B-1. Scale and Character: Add interest to the streetscape with exterior signs and attachments that are appropriate in scale and character to the project and its environs.

DC4-B-2. Coordination with Project Design: Develop a signage plan within the context of architectural and open space concepts, and coordinate the details with façade design, lighting, and other project features to complement the project as a whole, in addition to the surrounding context.

DC4-C Lighting

DC4-C-1. Functions: Use lighting both to increase site safety in all locations used by pedestrians and to highlight architectural or landscape details and features such as entries, signs, canopies, plantings, and art.

DC4-C-2. Avoiding Glare: Design project lighting based upon the uses on and off site, taking care to provide illumination to serve building needs while avoiding off-site night glare and light pollution.

DC4-D Trees, Landscape, and Hardscape Materials

DC4-D-1. Choice of Plant Materials: Reinforce the overall architectural and open space design concepts through the selection of landscape materials.

DC4-D-2. Hardscape Materials: Use exterior courtyards, plazas, and other hard surfaced areas as an opportunity to add color, texture, and/or pattern and enliven public areas through the use of distinctive and durable paving materials. Use permeable materials wherever possible.

DC4-D-3. Long Range Planning: Select plants that upon maturity will be of appropriate size, scale, and shape to contribute to the site as intended.

DC4-D-4. Place Making: Create a landscape design that helps define spaces with significant elements such as trees.

University Supplemental Guidance:

DC4-I Exterior Finish Materials

DC4-I-i. Desired Materials: See full Guidelines for list of desired materials.

DC4-I-iii. Discouraged Materials: See full Guidelines for list of discouraged materials.

DC4-I-iv. Anodized Metal: Where anodized metal is used for window and door trim, then care should be given to the proportion and breakup of glazing to reinforce the building concept and proportions.

DC4-I-v. Fencing: Fencing adjacent to the sidewalk should be sited and designed in an attractive and pedestrian oriented manner.
DC4-I-vii. Light Standards: Light standards should be compatible with other site design and building elements.

DC4-II Exterior Signs

DC4-II-i. Encouraged Sign Types: The following sign types are encouraged, particularly along Mixed-Use Corridors:

a. Pedestrian-oriented shingle or blade signs extending from the building front just above pedestrians.
b. Marquee signs and signs on pedestrian canopies.
c. Neon signs.
d. Carefully executed window signs, such as etched glass or hand painted signs.
e. Small signs on awnings or canopies.

DC4-II-ii. Discouraged Sign Types: Post mounted signs are discouraged.
DC4-II-iii. Sign Location: The location and installation of signage should be integrated with the building's architecture.

ANALYSIS & DECISION – Administrative DESIGN REVIEW

DIRECTOR'S ANALYSIS

The administrative design review process prescribed in Section 23.41.016.G of the Seattle Municipal Code describes the content of the SDCI Director's administrative design review decision as follows:

1. A decision on an application for a permit subject to administrative design review shall be made by the Director.
2. The Director's design review decision shall be made as part of the overall Master Use Permit decision for the project. The Director's decision shall be based on the extent to which the proposed project meets the guideline priorities and in consideration of public comments on the proposed project.

SDCI staff identified elements of the design review recommendations which are critical to the project's overall success. These design review conditions will need to be fulfilled by MUP issuance.

1. Add greater transparency to the west facing lobby wall located just to the north of the vestibule. (PL1-I, PL3-I, PL3-III)

2. Create seating nodes along NE Northgate Way by forming a more 'L' shape seating configuration with some seating facing the front entry interspersed with other site

features such as bollards, planters, or trash containers to break up the long expanse of bench seating into smaller seating nodes. (DC3-A-1, DC3-C-2, DC3-IV)

3. Modify the large building sign on the west building façade to be of a scale that is consistent with the scale and character of the area. (PL2-D, DC4-B, DC4-I)

The applicant shall be responsible for ensuring that all construction documents, details, and specifications are shown and constructed consistent with the approved MUP drawings.

Director's DECISION

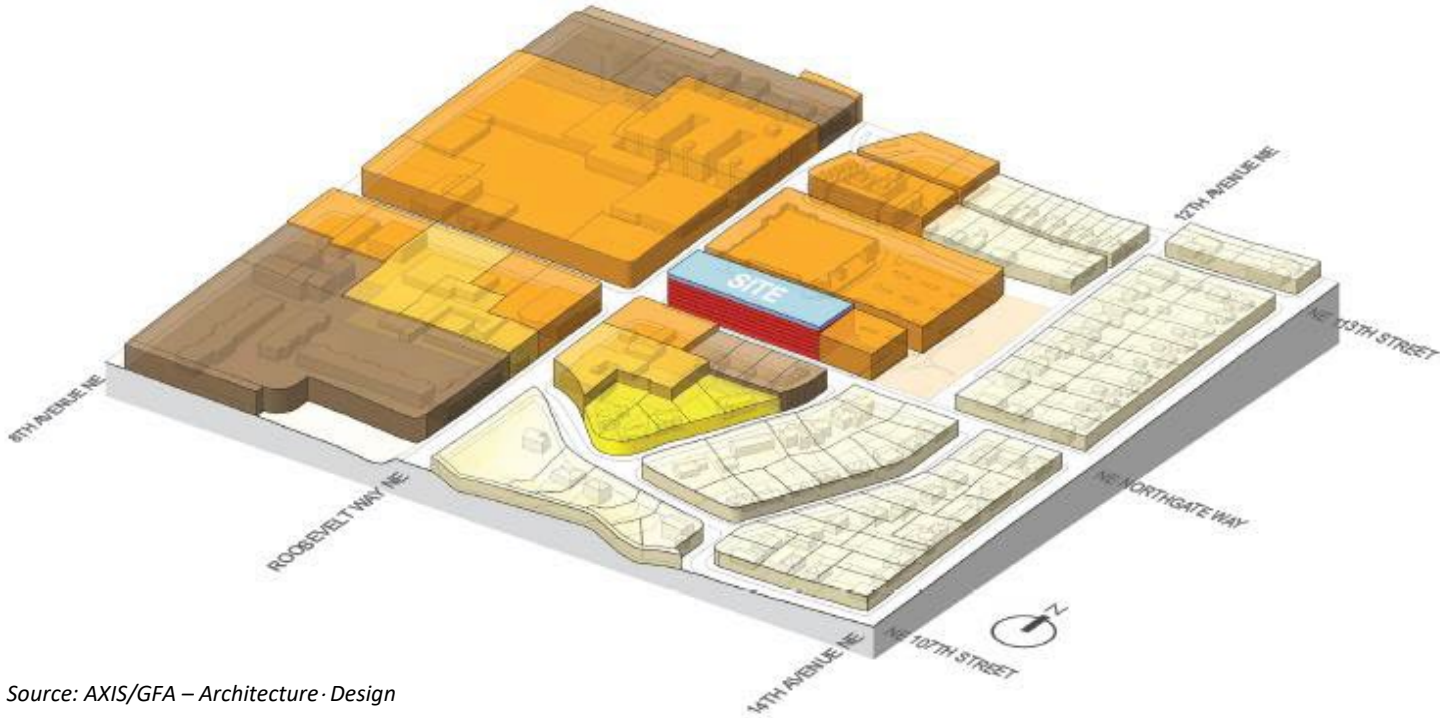
The Director CONDITIONALLY APPROVES the proposed design and the requested departure(s) with the conditions at the end of this decision.

II. ANALYSIS – REZONE

This development includes a proposal to rezone the site from NC3-55 (M). to NC3-65 (M1). through the contract rezone process. The City has published an EIS in support of up-zoning specific areas within the City to increase density designed to accommodate additional housing.

The owner/applicant has made application, with supporting documentation, per SMC 23.76.040.D, for an amendment to the Official Land Use Map. Contract rezones and Property Use and Development Agreements (PUDAs) are provided for in the Code at SMC 23.34.004.

Map of requested zoning



Source: AXIS/GFA – Architecture · Design

- SITE, 55' HEIGHT LIMIT
- SITE, 65' HEIGHT LIMIT W/REZONE NC3-65 (M)
- 55 (M), 55' HEIGHT LIMIT
- NC2-55 (M), 55' HEIGHT LIMIT
- LR3 (M), 50' HEIGHT LIMIT
- LR2 (M), 40' HEIGHT LIMIT
- RSL (M), 30' HEIGHT LIMIT
- SF 7200, 30' HEIGHT LIMIT

Seattle Municipal Code (SMC) Chapter 23.34, "Amendments to Official Land Use Map (Rezones)," allows the City Council to approve a map amendment (rezone) according to procedures as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

The applicable requirements for this rezone proposal are stated in:

- SMC Sections 23.34.004 Contract rezones
- SMC 23.34.007 Rezone evaluation;
- SMC 23.34.008 General rezone criteria;
- SMC 23.34.009 Height limits;
- SMC 23.34.078 Neighborhood Commercial 3

Applicable portions of the rezone criteria are shown in italics, followed by analysis in regular typeface.

SMC 23.34.004 Contract Rezones.

A. Property Use and Development Agreement. The Council may approve a map amendment subject to the execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone. All restrictions imposed by the PUDA shall be directly related to the impacts that may be expected to result from the rezone.

A Property Use and Development Agreement (PUDA) will be executed and recorded as a condition of the contract rezone. The Director recommends that the PUDA should require that development of the rezoned property is in substantial conformance with the approved plans for Master Use Permit number 3039050-LU.

B. Notwithstanding any contrary provision of subsection 23.34.004.A, the Council may approve a map amendment subject to execution, delivery, and recording of a property use and development agreement (PUDA) executed by the legal or beneficial owner of the property to be rezoned containing self-imposed restrictions applying the provisions of Chapter 23.58B or Chapter 23.58C to the property. The Director shall by rule establish payment and performance amounts for purposes of subsection 23.58C.040.A and 23.58C.050.A that shall apply7 to a contract rezone until Chapter 23.58C is amended to provide such payment and performance amounts for the zone designation resulting from a contract rezone.

The development proposal is a mixed-use multi-family apartment project consisting of a 7-story, 184-unit apartment building with retail and 88 below-grade parking spaces. The proposed contract rezone and associated with the project is subject to a PUDA containing self-imposed restrictions in accordance with the provisions of Chapter 23.58B and 23.58C.

As noted in the Background section of this report, the City Council passed Ordinance 124895 creating a new Land Use Code Chapter 23.58B, *Affordable Housing Impact Mitigation Program Development Program for Commercial Development* (MHA-C) in November 2015. The Council followed this, in August of 2016, with Ordinance 125108 creating a new Land Use Code Chapter 23.58C, *Mandatory Housing Affordability for Residential Development* (MHA-R). The rezoned property is subject to Chapters 23.58B and SMC 23.58C through the terms of a contract rezone in accordance with SMC 23.34.004 and Director's Rule 14-2016.

In the case where a Contract Rezone results in increases to commercial and residential development capacity, the MHA program requirements in SMC Chapter 23.58B and SMC Chapter 23.58C, are applicable through the terms of a contract rezone in accordance with Section 23.34.004.B.

A PUDA will be executed and recorded as a condition of the contract rezone and shall require that the rezoned property be subject to the requirements of *SMC 23.58B and 23.58C.* A Director's Rule (*Application of Mandatory Housing Affordability for Residential Development (MHA-R) in contract rezones, DR* 14-2016) has been approved pursuant to SMC 23.34.004.B. The rule specifies how to determine the appropriate MHA suffix. The PUDA shall specify the payment and performance calculation amounts for purposes of applying both aforementioned chapters. This project proposal is an affordable housing project that goes beyond the requirements of the MHA program. The actual payment or performance amounts will be contained in the final PUDA.

The Director's Rule provides a phased implementation calculation for proposals with complete Master Use Permit applications submitted before January 1, 2016. The subject application was submitted after this date (complete: December 6, 2022*)* so the phased implementation provisions do not apply. Application of the Director's Rule indicates that the proposed rezone from NC3-55 to NC3-65) would fall into tier *M1*, and therefore receive an *M1* suffix. SDCI's recommendation for a 65-foot height limit would also fall into tier M1.

C. A contract rezone shall be conditioned on performance or compliance with the terms and conditions of the PUDA. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The PUDA shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.

A PUDA will be executed and recorded as a condition for the contract rezone from Neighborhood Commercial 3 – 55 height limit [NC3-55 (M)]. SDCI recommends a height limit of 65-feet with the Neighborhood Commercial 3 zone designation (NC3-65 (M1)) with the recommended condition that development will be in substantial conformance with the approved plans for Master Use Permit number 3039050-LU. The recorded condition will facilitate the use of an MHA suffix and any associated development standards identified in the

Land Use Code, and the 65-foot height limit will accommodate the proposed height and floor area ratio for the project as designed.

D. Waiver of Certain Requirements. The ordinance accepting the PUDA may waive specific bulk or off-street parking and loading requirements if the Council determines that the waivers are necessary under the agreement to achieve a better development than would otherwise result from the application of regulations of the zone. No waiver of requirements shall be granted that would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

The applicant is not seeking waivers from bulk or off-street and loading requirements for this rezone proposal.

SMC 23.34.007 Rezone Evaluation.

A. The provisions of this chapter shall apply to all rezones, except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets these provisions. In addition, the zone function statements, which describe the intended function of each zone designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.

This rezone is not proposed to correct a mapping error, and therefore the provisions of this chapter do not apply. In evaluating the proposed rezone, the provisions of this chapter have been weighed and balanced together to determine which height designation best meets the provisions of the chapter. Additionally, the zone function statements have been used to assess the likelihood that the proposed rezone will function as intended.

B. No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.

This analysis evaluates a range of criteria as they apply to the subject rezone and as identified in Chapter 23.34 Amendments to Official Land Use Map (Rezones) and Seattle Municipal Code (listed at the beginning of this "Analysis" section) and subject to the requirements of SMC 23.58.B and 23.58.C. No provision of the rezone criteria establishes a particular requirement or sole criterion that must be met for rezone approval. Thus, the various provisions are to be weighed and balanced together to determine the appropriate zone designation for the property. All applicable rezone criteria are considered in this application to allow for a balanced evaluation.

C. Compliance with the provisions of this chapter shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones, except that Comprehensive Plan Shoreline Environment Policies shall be used in shoreline environment redesignations as provided in SMC subsection 23.60A.042.C.

The proposed rezone is not a shoreline environment redesignation and so the Comprehensive Plan Shoreline Policies were not used in this analysis.

D. Provisions of this chapter that pertain to areas inside of urban centers or villages shall be effective only when a boundary for the subject center or village has been established in the Comprehensive Plan. Provisions of this chapter that pertain to areas outside of urban villages or outside of urban centers shall apply to all areas that are not within an adopted urban village or urban center boundary.

The entire site is located within the Northgate Urban Center established in the Comprehensive Plan within boundaries as established in the Comprehensive Plan. The proposed rezone has been evaluated according to the provisions of this chapter that apply to areas inside urban centers.

E. The procedures and criteria for shoreline environment redesignations are located in Sections 23.60A.042, 23.60A.060 and 23.60A.220.

The subject rezone is not a redesignation of a shoreline environment and therefore is not subject these code sections.

F. Mapping errors due to cartographic or clerical mistakes may be corrected through process required for Type V Council land use decisions in SMC Chapter 23.76 and do not require the evaluation contemplated by the provisions of this chapter.

The subject rezone is not a correction of a mapping error and so should not be evaluated as a Type V Council land use decision.

SMC 23.34.007 Conclusion: The proposed rezone meets the requirements of SMC 23.34.007, per the analysis above.

SMC 23.34.008 General rezone criteria.

A. To be approved a rezone shall meet the following standards:

1. In urban centers and urban villages, the zoned capacity for the center or village taken as a whole shall be no less than 125% of the growth targets adopted in the Comprehensive Plan for that center or village.

2. ***For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Urban Village Element of the Comprehensive Plan.***

The subject site is located within the Northgate Urban Center. The growth target for this urban center is 3,000 housing units between the years 2015 and 2035 (Growth Strategy Appendix, Comprehensive Plan/Seattle 2035) and the density sought is 11 housing units per acre (Land Use Appendix, Comprehensive Plan/Seattle 2035). According to Director's Rule 13-2021 (Determination of State Environmental Policy Act (SEPA) Review Exemption Levels for Infill Residential and Mixed-Use Development in Urban Centers and Urban Villages, effective August 9, 2021), the growth target for the Northgate Urban Center has not been exceeded. According to the SDCI Urban Center/Village Housing Unit Growth Report (dated May 6, 2021), the Northgate Urban Center has presently achieved only 7.9% of its residential growth target. The proposed rezone will not reduce the zoned capacity for the Northgate Urban Center. The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height and residential units.

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. The proposed rezone is consistent with SMC 23.34.008.A.2. as the proposed change would not result in less density for this zone than the density established in the Urban Village Element of the Comprehensive Plan.

B. ***Match between Established Locational Criteria and Area Characteristics. The most appropriate zone designation shall be that 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.***

The proposal site is currently zoned Neighborhood Commercial 3 (NC3) which allows a maximum building height of 55 feet. The proposal is asking for an addition 10 feet of height for a zoning designation of NC3-65. The rezone would allow for additional height to accommodate 31 additional housing units consistent with the Urban Center design framework height recommendations for properties located in the Northgate Urban Center.

No change to the Neighborhood Commercial 3 (NC3) zone designation is proposed; thus, the criteria for designation of commercial zones in SMC 23.34.072 are not applicable. The focus of this rezone application is therefore on whether increased height is appropriate.

The NC3 functional and locational criteria in SMC 23.34.078 continue to match the characteristics of the area. Specifically, the proposed project will support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and larger community, and incorporate businesses and residences that are compatible with the retail

character of the area. The project seeks to promote intense pedestrian activity with transit as an important means of access per SMC 23.34.078.A.1-.A.5.

The NC3 zone also continues to be locationally appropriate because the property is generally characterized as part of the primary business district in an urban center and is served directly by two and indirectly by a third principal arterial. Further the proposal site is separated from lower density residential areas by physical edges, less-intense commercial areas or more-intense residential areas while boosting excellent transit service, see SMC 23.34.078.B.1-.B.4.

C. Zoning History and Precedential Effect. Previous and potential zoning changes both in and around the area proposed for rezone shall be examined.

Zoning maps dating from 1958 indicate primarily commercial zoning at the intersection of Roosevelt Way NE and Northgate Way NE (then known as E. 110th Street), surrounded by multifamily zoning beyond. This pattern can be seen on the block face containing the proposal site, with a pocket of General Commercial (CG) at the westerly corner and Duplex Residence Medium Density (RD-7200) extending to the east to 12th Avenue NE.

The 1973 Official Zoning Map indicates a similar zoning pattern, with nearby areas of the CG zone expanding eastward.

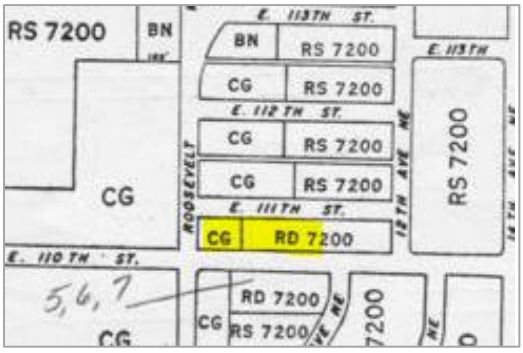


Figure 1: Excerpt from 1958 Zoning Map (Property Highlighted)

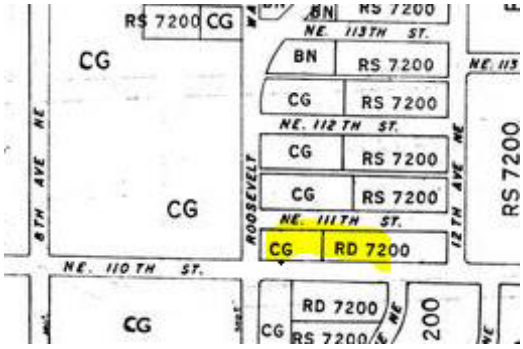


Figure 2: Excerpt from 1973 Zoning Map (Property Highlighted)

In 1982, as part of the City's Multifamily Code Update (Ordinance 110570), several neighborhood parcels were redesignated from high- or moderate-density residential to low-density residential. Later, in 1986, as part of the City's Commercial Zone Update, several neighborhood parcels were upzoned, to include the proposal site, which was upzoned to C1-40. Other parcels in the neighborhood bordering NE Northgate Way and 5th Avenue NE were also upzoned to more intense commercial designations (BC and CG to C1-65).

In 1993, as part of the Northgate Area rezone (Ordinance 116794), several of the same parcels were downzoned, including the proposal site, which was then designated NC3-40.

At that time, the development site immediately to the north of the proposal site (now QFC) and east of the proposal site (now a bioretention pond) was consolidated and redesignated from C1-40, SF 7200 and L2 to NC3-40 to facilitate construction of the grocery store, associated parking, and related stormwater infrastructure.

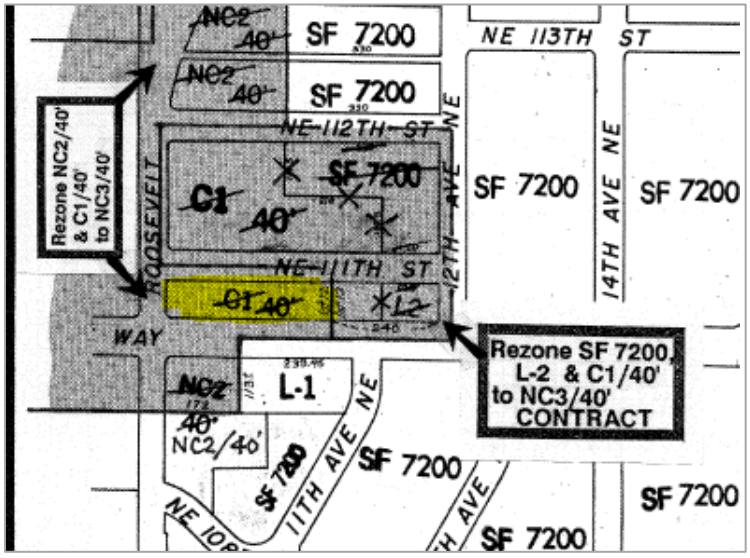


Figure 3: Excerpt from 1993 Rezone Map (Property Highlighted

- In 1999, a contract rezone was initiated and approved for a development site several blocks west of the proposal site (at 3rd Avenue NE and NE Northgate Way), upzoning a portion of that site from MR to NC3-65 to facilitate construction of a Target store (Ordinance 119621, CF 302803, MUP No. 9802979).

- In 2004, the Northgate area, including the subject sites, were designated an Urban Center with adoption of an updated Comprehensive Plan. The area was found to be a unique area of concentrated employment and housing, with direct access to high-capacity transit, and a wide range of supportive land uses such as retail, recreation, public facilities, parks, and open space.

- In 2012, the City approved a contract rezone for two parcels at 11200 1st Avenue NE, rezoning that development site from MR to NC3-85, allowing 85-ft. heights for future mixed-use, commercial, and multi-family residential development (Ordinance 3006101, CF 311240, MUP No. 3006101).

- In 2013, the City approved a contract rezone on property at 525 NE Northgate Way, upzoning that development site from NC3-65 to NC3-85 to allow a 7-story mixed-use residential building (Ordinance 124272, CF 312357, MUP No. 3014776).

- In 2016, another contract rezone was approved southwest of the Property, upzoning the development site at 10711 8th Avenue NE from NC3-40 to NC3-65, thereby allowing a new 65-foot height limit to facilitate construction of two multifamily developments (Ordinance 125035, CF 314287, MUP Nos. 3018442-LU, 3020189-LU).

- In 2019, as part of the Citywide Mandatory Housing Affordability (MHA) legislation (Ordinance 125791), the proposal site and surrounding parcels were upzoned from NC3-40 to NC3-55. This zoning and height limit remains in effect on the Property today.

- Most recently, in 2022 a contract rezone was approved on two parcels immediately south of the Property, upzoning the development site at 10735 Roosevelt Way NE from LR3 (M) to MR (M1), which enacts an 80' height limit. (Ordinance 126540, CF 314441, SDCI Project 3033517-LU).

The applicant is now proposing a change from NC3 55(M) to NC3 65 (M1).

D. Neighborhood Plans

1. For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.

The subject sites are within the Northgate Urban Center and are affected by the goals and policies in the adopted portions of the Northgate Neighborhood Plan which can be found in the City of Seattle Comprehensive Plan, Adopted Neighborhood Plans section. This Neighborhood Plan was adopted in 1993 and was amended in 2004 (effective 2005) and again in 2012 (Ordinance number 123854). The adopted portions of the Northgate Neighborhood Plan include goals and policies that relate to rezones and properties within the Northgate Neighborhood Plan area generally. The subject sites are located within the Northgate Neighborhood Plan but outside the core subarea which is located across the street to the west. The applicable plan goals and policies include:

> NG-G2: A thriving, vital, mixed-use center of concentrated development surrounded by healthy single-family neighborhoods transformed from an underutilized, auto-oriented office/retail area.
>
> NG-G3: The surrounding single-family neighborhoods are buffered from intense development in the core, but have ready access to the goods, services, and employment

located in the core via a range of transportation alternatives including walking, bicycling, transit, and automobile (the core area is shown on the Northgate map).

NG-G4: The most intense and dense development activity is concentrated within the core.

NG-P6: Promote additional multifamily housing opportunities for households of all income levels to the extent that a compatible scale and intensity of development can be maintained with adjacent single-family areas.

NG-P7: Reduce conflicts between activities and promote a compatible relationship between different scales of development by maintaining a transition between zones where significantly different intensities of development are allowed.

NG-P8.5: Support future potential rezones to higher-intensity designations in the North Core Subarea. In considering such rezones, pay particular attention to the development of an environment that creates a network of pedestrian connections and that encourages pedestrian activity, among other considerations associated with a rezone review.

NG-G7: Medium- to high-density residential and employment uses are concentrated within a ten-minute walk of the transit center, reducing the number and length of vehicle trips, and making travel by foot and bicycle more attractive.

The proposed rezone is in conformance with the applicable policies of the Northgate Neighborhood Plan in the following ways:

The rezone will further the vitality of the mixed-use center by increasing residential density and promoting livable high-density housing and reducing reliance on single occupancy vehicles to access services and transit. The proposed rezone will not affect the surrounding Neighborhood Residential or Lowrise zones.

The proposed rezone would have minimal if any adverse impact to the transition between the existing Neighborhood Commercial zoning to the north and west and adjacent Neighborhood Residential to the east (across 12th Ave NE) and Lowrise 2 to the south.

Finally, the proposed rezone site is located adjacent to the North Core Subarea of the Northgate District and support of this rezone would allow for increased residential density within proximity to the Northgate transit center which is within a 10 to 15-minute walk from the site. The increased demand for nearby goods and services because of increased density could also reduce the number and length of single occupancy vehicle trips and make travel by foot and bicycle more attractive.

No neighborhood plan amendment is pending or required.

2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.

While outdated, the 1993 Northgate Neighborhood Plan has policies that are applicable, and the proposed development project and rezone meet per the following:

- At Policy 2, Implementation Guideline 2.1, subsection A.1, the 1993 Plan states that the Property 1 is a "particular location [that] provides a unique opportunity to enhance the boundary between the Northgate core and the surrounding residential neighborhood." *Id.*
- Policy 4 states that "additional multifamily housing opportunities of all income levels shall be promoted to the extent that a compatible scale and intensity of development can be maintained with single-family areas." *Id.* The Project and its associated height increase will promote multifamily housing for all income levels, by providing dense, livable affordable housing where none has previously existed. Thanks to the buffering described at Section E below, compatible scale and intensity will be maintained by the Project. *Id.*
- At Policy 6, Implementation Guideline 6.3 provided that this stretch of Roosevelt Way NE would become a "Key Bicycle Street." The frontage improvements proposed as part of the Project would complement this aspect of the City's 1993 vision.
- At Policy 7, Implementation Guideline 7.6, the 1993 Plan states that NE Northgate Way between Lake City Way NE and Roosevelt Way NE (i.e., including the Property's frontage) would be redesignated a "minor transit street [to] allow Metro service to significantly improve transit service [to] make transit a more attractive mode for shorter, northend trips." *Id.* The Project proposes to supply a dense, transit-oriented affordable housing site to complement this status.
- At Policy 8, Implementation Guideline 8.2, the 1993 Plan specifically named "[a]ll commercially zoned lots on both sides of NE Northgate Way between 3rd Avenue NE and 11th Avenue NE" among segments then described as designated "Pedestrian Streets," and therefore "intended to serve as major links in the pedestrian network of the core." *Id.* However, this implementation tactic of the 1993 Plan (as implemented through associated Code provisions at SMC 23.71.008) has not yet been realized for this frontage, because no substantial development has yet occurred. The Project will finally bring such substantial redevelopment, in full compliance with all applicable standards. The additional height will not only catalyze the project (and its many pedestrian-friendly features) but will also provide an additional story of residences to contribute to a strong base of pedestrians and "eyes on the street." *See generally* SMC 23.71.008.
- At Policy 8, Implementation Guideline 8.3 subsection D, the 1993 Plan states that "[s]afe, convenient pedestrian crossings shall be a priority at . . . Roosevelt Way NE between NE 111th Street and NE 112th Street." *Id.* The Project will complement this

goal by replacing a restaurant and vehicle-oriented Jiffy Lube with an affordable housing site that incorporates up-to-date pedestrian safety measures.

- At Policy 8, Implementation Standard 8.6, the 1993 Plan stated that Roosevelt Way NE . . . shall be [among those streets] designated as Special Landscaped Arterials," to be "enhanced with special landscaping treatment and pedestrian facilities to improve the balance between the arterial's role in carrying high traffic volumes and large numbers of pedestrians." *Id.* However, this implementation strategies of the 1993 Plan (as implemented through associated Code provisions at SMC 23.71.012) has not yet been realized for this frontage, because no substantial development has yet occurred. The project will bring such substantial redevelopment, in full compliance with all applicable standards. The additional height will not only catalyze the Project (and its many pedestrian-friendly features) but will also provide an additional story of residences to contribute to a strong base of pedestrians and "eyes on the street." *See generally* SMC 23.71.008.

3. Where a neighborhood plan adopted or amended by the City Council after January 1, 1995, establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.

This third criterion does not apply to the 1993 Plan, which predated January 1, 1995, as it does not establish specific policies expressly adopted to guide future rezones, or rezone of this site. Further the adopted portions of the Northgate Urban Center in the Comprehensive Plan do not include any policies expressly adopted for the purpose of guiding future rezones outside of the Northgate Core Subarea.

4. If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.

The 1993 Plan addressed this block specifically in subpart 2.1.A.1, stating that "this particular location provides a unique opportunity to enhance the boundary between the Northgate core and the surrounding residential neighborhood due to the stream which runs along the eastern edge of the site." That first rezone was enacted through Ordinance 116794 and an accompanying PUDA, as required by this criterion. However, that zoning has been subsequently superseded by the City's 2019 MHA upzone.

The Council adopted portions of the Northgate Neighborhood Plan do not identify any specific areas for rezone outside North Core Subarea. However, the proposed rezone is consistent with the density anticipated in and around the Northgate Core as contemplated in the Seattle Comprehensive Plan.

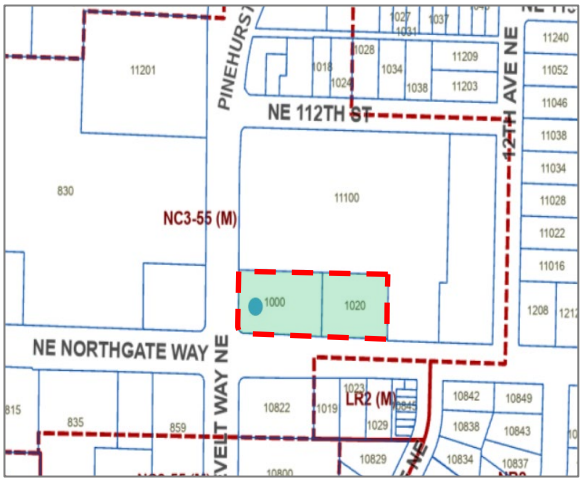
E. Zoning Principles. The following zoning principles shall be considered:

1. The impact of more intensive zones on less intensive zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.

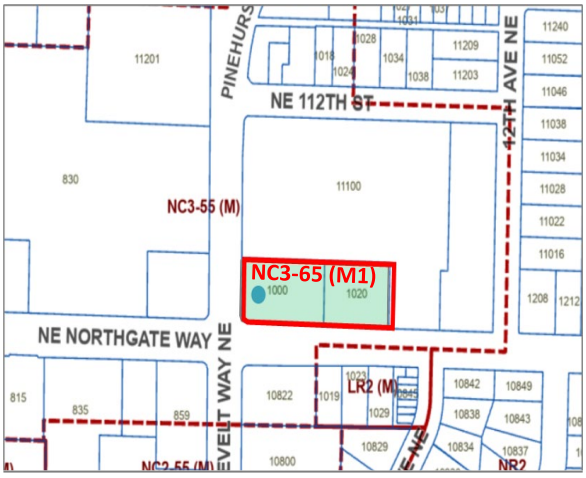
The rezone request proposes a change in the zoning from the existing Neighborhood Commercial 55 (NC3-55) to a Neighborhood Commercial (NC3-65) zone. This would result in an MHA suffix of M to M1, pursuant to SDCI Director's Rule 14-2016. The properties to the north and west (on the west side of Roosevelt Way NE) are also currently zoned NC3-55 with less intensive zones to the east that are zoned Neighborhood Residential (NR), formerly SF 7200, and LR2to the south. It should be noted that the less intensive residential zones are physically separated from the NC3 by street and natural physical buffers.

Finally, the proposed rezone does not change the existing zoning designation, but rather increases the total allowable height by 10 feet. As such there will be no unanticipated commercial use impacts on other zones

Existing Zoning



Proposed Rezone



Not to scale - for reference only

The design review process 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 recommended for approval by SDCI Staff through the Administrative Design process, and recommended for approval by the director, includes design strategies to minimize the

appearance of height, bulk, and scale, as described in the design review analysis portion of this document.

2. ***Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:***

    a. ***Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;***
    b. ***Freeways, expressways, other major traffic arterials, and railroad tracks;***
    c. ***Distinct change in street layout and block orientation;***
    d. ***Open space and greenspaces.***

The proposal site has a strong edge that buffers the site from other lower density land uses to the south and to the east. The site is physically separated from the Neighborhood Residential (NR) zone to the east by the existing bioretention pond, Victory Creek Park and Thornton Creek, and 12th Avenue NE which runs in a north-south direction. The site is also physically separated from the LR2 zone to the south by NE Northgate Way a major arterial with sidewalks and planting strips and a total right-of-way width of between 73 and 76 feet. The proposal site will continue to satisfy this criterion, after it is redeveloped.

3. ***Zone Boundaries.***
    a. ***In establishing boundaries, the following elements shall be considered:***

        (1) ***Physical buffers as described in subsection E2 above;***
        (2) ***Platted lot lines.***

The proposed rezone would continue to follow established zoning boundaries, platted lot lines and/or street rights of way and existing physical buffers as described in subsection E2 above. The granting of the contract rezone would allow for an additional 10 feet in height only for two legal parcels of record located at 1000 and 1020 NE Northgate Way.

    b. ***Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.***

The proposed rezone does not alter any existing boundaries between commercial and residential zones, and therefore, is not inconsistent with zone boundary principles.

4. ***In general, height limits greater than forty (40) feet should be limited to urban villages. Height limits greater than forty (40) feet may be considered outside of urban villages where higher height limits would be consistent with an adopted***

neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.

The whole of the project site is located within the Northgate Urban Center. The site currently has a zoning designation of NC3-55 in which heights above 40 feet are considered appropriate.

F. Impact Evaluation. The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.

1. Factors to be examined include, but are not limited to, the following:

a. Housing, particularly low-income housing;

The proposed project in conjunction with the contract rezone will provide approximately 184 new affordable transit-oriented housing units in line with the city's Comprehensive Plan, plan area policies. To continue, 31 of these units are made possible as a result of increased building height being pursued through the contract rezone process. No market-rate housing is provided on the property. The project will provide a positive contribution to the City's overall need for housing generally, and low-income housing specifically.

b. Public services;

Though demand for public services may increase with an increased residential population, the added numbers will strengthen the community by contributing to the critical mass necessary to support neighborhood services anticipated in the neighborhood plan.

Public services are available to the project due to its location in a highly developed urban area. The project has obtained confirmation that adequate water, sewer, stormwater, and electrical services are adequate to serve the proposed project.

Finally, the increased security provided by a developed site with security lighting and the surveillance of eyes on the street provided by multiple residents is seen as having a positive impact and as mitigation for the increased demand for public safety services.

c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;

The potential impacts of the proposed rezone and development project are identified in greater detail in the SEPA analysis in this report. The additional height and residential density will not significantly increase shadow impacts.

The applicant provided a shadow study in their Design Review recommendation packet prepared by (AXIS/GFA 04.28.2023) demonstrating that the proposed development would contribute to the greatest amount of shading of Victory Creek Park during the Winter solstice.

Much of the shading would occur around 3 PM near the north-western portion of the park, which might be characterized as the northern 1/3 portion of the park. While the park is used year around, the highest usage is generally from early May to early September. During the summer months the park would not be in shade. The most extensive shading would occur around 3 PM during the winter months.

No odor- or noise-producing uses are proposed as part of the project. Noise excessive of the urban environment will not be produced by the project. Air and water quality will not be impacted, nor will terrestrial and aquatic flora and fauna. The project will comply with current energy codes.

Potential positive impacts from the rezone and development project include improved connection to QFC Supermarket for residents and the greater community and increased residential density in an urban center on a site that is relatively close to Northgate Station, national and local commercial retailers, offices, medical facilities, banking institutions and other support services all within walking distance.

Finally, the 31 additional housing units afforded by the increase in building height and approval of the Contract Rezone request would contribute greatly to the City's affordable housing needs.

d. Pedestrian safety;

In terms of pedestrian safety, the project will go through the Street Improvement Process or SIP review process with the Seattle Department of Transportation to ensure compliance with the most current requirements for sidewalk and landscaping improvements. Further the proposed building is designed to increase pedestrian safety along NE Northgate Way by creating neighborhood open space articulated entrances and units and residential entries designed to provide eyes on the street.

Night lighting of entrances and walkways is also contemplated, which will help ensure nighttime safety. Lighting will be directed downward and away from any neighboring residential uses to minimize light impacts. Finally, the project's open space and proposed pedestrian connection will incorporate lighting, signage, textured pavement, and other elements to enhance pedestrian safety and a welcoming environment around and through the project site.

e. Manufacturing activity

The project does not displace or propose manufacturing activity, as the proposal site is not zoned for manufacturing activity.

f. Employment activity;

The proposal project would displace two existing commercial uses: Jiffy Lube and Patty's Eggnest, each of which provides some on-site employment opportunities. According to County records, Jiffy Lube provides 3,488 net square feet of commercial space and Patty's Egg Nest comprises 3,609 net square feet of commercial space, for a total of 7,097 net square feet of existing non-residential use. The loss of the two existing commercial establishments will be offset by new employment opportunities present by anticipated commercial business or non-residential space proposed at the ground floor of the redevelopment. At present, the project is anticipated to provide approximately 6,770 square feet of commercial space that is expected to provide new employment opportunities.

In the event that the new commercial or other non-residential floor area does not generate new employment opportunities, any impact from the loss of jobs at Patty's Eggnest and Jiffy Lube will be offset by the project's 184 new units of housing in that new residents will support neighborhood business activity, potentially leading to additional job growth as a result of increased demand for goods and services brought on by these new residents. The proposed new low-income housing will also support the acute need for housing that is associated with job proximity and growth and the ability to have quick and easy access to such a large job pool in the area reducing the need to commute and keeping more money in the area.

g. Character of areas recognized for architectural or historic value;

The development area has not been recognized as having historical significance. Furthermore, the existing buildings Jiffy Lube constructed in 1988, and the Patty's Eggnest constructed in 1970, are not listed on the City's historic building survey as warranting landmark nomination status. The Department of Neighborhoods has determined that a landmark nomination is unnecessary (LPB 526/18). Further, there are no designated landmarks surrounding the project site, nor are there any properties listed for potential landmark status surrounding the project site.

A SEPA Appendix A report has been prepared for the buildings currently occupying the site and it was determined that there are no architectural or historic significant elements or designated landmarks associated with these structures.

h. Shoreline view, public access, and recreation.

The proposed rezone will not have an impact on public access or recreation, or shoreline views as the proposal site is not located within proximity of a shoreline.

2. Service Capacities. Development which can reasonably be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:

a. Street access to the area;

The subject properties abut Roosevelt Way NE and NE Northgate Way. The applicant submitted A Transportation Impact Analysis prepared by Transportation Engineering NorthWest, January 9, 2023, indicating that the project is expected to generate approximately 400 weekday daily vehicle trips with approximately 23 occurring during the weekday AM peak hours and 35 trips during the PM peak hours. Street access, street capacity, transit service, and parking capacity were discussed therein.

The property has substantial frontage on two principal arterials (Roosevelt Way NE and NE Northgate Way), and access to a third principal arterial, Pinehurst Way NE which is within three blocks of the proposal site. There is also easy access to northbound and southbound onramps to I-5 located within ten blocks of the site.

b. Street capacity in the area;

Discussed in the Transportation Impact Analysis are the screenlines reviews used to obtain the volume to capacity (v/c) with the anticipated future redevelopment. The report states that controlled movements at the site access driveways are expected to operate at LOS C or better with minimal queuing in 2025 during the weekday AM and PM peak hours. The report also shows that the evaluated screenlines would continue to operate below the concurrency thresholds with construction of the project. As a result, no concurrency related mitigation is warranted or required for the project.

The SDCI Transportation Planner reviewed the information and determined that no mitigation is warranted per SMC 25.05.675.R (Traffic and Transportation Policy).

c. Transit service;

In addition to the nearby Northgate Station's link light rail, the area is served by bus rapid transit and local bus service. The proposal site is also well served by several King County Metro bus lines. Most notably, routes 320 and 20 which frequent east to west bound lines along NE Northgate Way. Route 20 is a "frequent all-day route" that provides service every fifteen minutes or less from Monday through Friday, 6 am to 7 pm, as well as every 30 minutes or less on weekends from 6 am to 10 pm. The 73 line connects the site with Roosevelt and University District neighborhoods in addition to Children's Hospital, while the route 20 line connects with Lake City, Green Lake, and University District neighborhoods. Other Metro lines serving the site include the 347 and 348.

d. Parking capacity;

On January 20, 2023, the state of Washington proposed SEPA related amendments that removed parking as an element of the environment and revised the environmental checklist. As a result of new state law, SDCI will no longer identify and analyze parking impacts in its SEPA analysis.

However, the proposed project is not expected to cause an over-burdening of area parking infrastructure. With shared parking between the retail and residential uses, the proposed parking supply of 88 parking spaces is anticipated to accommodate the parking demand without parking spillover onto the adjacent property.

e. Utility and sewer capacity;

A Water Availability Certificate evidencing adequate water service capacity was approved and will not expire until December 13, 2024. (SPUE-WAC-21-01985.

With regards to utility and sewer capacity the project site is located within a City of Seattle Listed Creek Basin and will provide applicable detention as required. Onsite storm mitigation, bioretention and possibly green roofing will be provided to the maximum extent feasible for the proposed project to meet applicable City of Seattle requirements. The peak flow storm water runoff from the site will be decreased due to proposed mitigation, and sewer facilities are anticipated to have adequate capacity to support the Project.

In terms of solid waste, SPU approved the solid waste plan for 184 apartments and 8,186 square foot Commercial space.

The electrical system servicing the development sites would likely need to be upgraded to provide adequate electricity to serve the proposal. The applicant has signed and executed the Seattle City Light service construction acceptance form.

f. Shoreline navigation.

The project site is not located within or near any shoreline area and will therefore have no impacts to shoreline navigation.

G. Changed Circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

As noted above changed circumstances are not required to demonstrate the appropriateness of a proposed rezone. However, several changed circumstances have occurred since the proposal site's current height limit took effect in April of 2019, which weigh in favor of support for the height increase.

In November of 2015, the City Council passed Ordinance 124895 creating a new Land Use Code Chapter 23.58B, Affordable Housing Impact Mitigation Program Development Program for Commercial Development (MHA-C). The Council followed this, in August of 2016, with Ordinance 125108 creating a new Land Use Code Chapter 23.58C, Mandatory Housing Affordability for Residential Development (MHA-R). The purpose of these Chapters was to implement an affordable housing incentive program authorized by RCW 36.70A.540.

Chapters 23.58B and 23.58C specify a framework for providing affordable housing in new development, or an in-lieu payment to support affordable housing, in connection with increases in commercial or residential development capacity. Chapter 23.58B and 23.58C are applicable as follows: where the provisions of a zone specifically refer to Chapter 23.58C; or through the terms of a contract rezone in accordance with Section 23.34.004.

Citywide rezone was adopted, April 19, 2019, changing the proposal site's zone from NC3-40 to NC3-55 (M). Approximately one-half mile to the west of the site is the location of the Northgate Link Light Rail Station. The City Council passed resolution 31465 approving the alignment and transit station location in September 2013.

In a 2019, a MUP (3031301-LU) was issued for the redevelopment of the Northgate Mall, a 40-acre site one-half mile to the west. The redevelopment of that site included construction or renovation of up to 15 different buildings including an indoor participant sports facility (National Hockey League training center and community ice rinks), office, retail, restaurants, and hotel, along with 2,818 parking spaces. The redevelopment proposal aims to transform Northgate Mall into a walkable, mixed use, transit-oriented district. A network of new streets and pedestrian corridors reduces the superblock scale of the existing site, while providing access to new and existing buildings.

H. Overlay Districts. If the area is located in an overlay district, the purpose and boundaries of the overlay district shall be considered.

The proposal site is located within the Northgate Urban Center and Northgate Overlay District as designated by Seattle's Comprehensive Plan. The Northgate section of the plan provides a list of goals policies that the redevelopment project would support, advance and/or compliment.

The purpose and intent of the Overlay District is to create an environment in the Northgate Area that is more pedestrians friendly and supportive of commercial development, protect the

residential character of residential neighborhoods and support Northgate as a regional transportation hub.

The redevelopment project with its proposed height increase, will aid in improving the pedestrian environment, support commercial development with the creation of added commercial floor area and provide 184 dwelling units whose residents are likely to patronize surrounding neighborhood businesses and increase ridership on local transit.

The proposed rezone request to allow for additional height will allow for greater density in the Northgate core of the Northgate Urban Center, which in turn will increase pedestrian activity, support the core's growing commercial center, and leverage the City's investment in the Northgate transit center. No significant impacts on surrounding residential neighborhoods are expected.

I. Critical Areas. If the area is located in or adjacent to a critical area (SMC Chapter 25.09), the effect of the rezone on the critical area shall be considered.

The rezone is not anticipated to have a negative effect on any critical area. The City's GIS layer indicates that a portion of the proposal site (located on the far eastern side of 1020 NE Northgate Way) may be encumbered by a wetland buffer which pertains to a nearby but off-property bioretention pond. However, the bioretention pond is a man-made stormwater facility associated with the QFC development to the north. It is not a critical area and is not connected with the proposal.

The applicant, however, provided a Wetland Report & Stream Determination Report prepared by Acre Environmental Consulting, LLC. October 22, 2019, in which Acre Environmental assessed the area adjacent to the subject site as well the wetland adjacent to Victory Creek and determined that these areas do not meet the requirements for jurisdictional wetlands. This was confirmed by the SDCI's wetlands specialist.

No other critical areas are known to be present on or within 25 feet of the Property. Any final proposal to redevelop the Property will comply with all applicable ECA regulations.

J. Incentive Provisions. If the area is located in a zone with an incentive zoning suffix, a rezone shall be approved only if one of the following conditions are met:

1. The rezone includes incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone; or

2. If the rezone does not include incentive zoning provisions that would authorize the provision of affordable housing equal to or greater than the amount of affordable housing authorized by the existing zone, an adopted City housing policy or

comprehensive plan provision identifies the area as not a priority area for affordable housing, or as having an adequate existing supply of affordable housing in the immediate vicinity of the area being rezoned.

The current zoning applicable to the proposal site includes a "M" suffix, indicating MHA program requirements apply. As the proposed height will increase the zoned capacity of the site from a "Category 3" zone to a "Category 4" zone pursuant to SDCI Director's Rule 14-2016, the site should receive an updated "M1" suffix through the contract rezone approval and PUDA. The development proposal is for a 100% affordable housing, development which therefore goes beyond the requirements of the MHA program for M1 suffix properties.

SMC 23.34.008 Conclusion: The proposed rezone will allow for the proposed development to be constructed 10' taller than the maximum height limit permitted in the current zoning (55'). Director recommends that a rezone be approved to NC3-65 (M1) with the condition that the development be limited to the proposed design. The proposed development has been reviewed through the Design Review process, including strategies to ease the transition to less intensive adjacent zones. The proposed rezone meets all other requirements of SMC 23.34.008, per the analysis above.

SMC 23.34.009 Height Limits of the Proposed Rezone

If a decision to designate height limits in residential, commercial, or industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:

A. Function of the zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.

Urban centers are the densest neighborhoods in the city and act as both neighborhood center regional shopping destinations with a mixture of commercial uses, housing, and employment opportunities. Larger urban centers are divided into urban center villages to recognize the distinct character of different neighborhoods within them (Urban Village Element, Comprehensive Plan). The proposed rezone lies within the boundaries of the Northgate Urban Center, which allows for increased density in the urban center and the Northgate Core. The Comprehensive Plan Northgate Policy NG-P1 encourage development of the core as a major regional activity center for retail, commercial, office, multifamily residential, and educational uses with densities sufficient to support transit.

The applicant is requesting to increase the existing height limit of the proposal site from 55' to 65', without a change to the underlying zone. The proposed 65-foot height limit would be

compatible with the type and scale of development intended for Neighborhood Commercial 3 zoning designation.

The requested height increase would allow for the development of 31 additional living units, within walking distance of goods, services and a transit hub, a positive benefit to the local economy and character of the area.

The proposed height limit would also be consistent with the type and scale of development intended for the Northgate Urban Center, as discussed in Northgate Policy NG-P5 and NG-P6 which promotes a mixture of activities including commercial and residential uses in areas that have Neighborhood Commercial and Residential Commercial zoning designations.

The propose would provide a mixed-use development with increased FAR, a positive, as reflected in the expressed in the Northgate land use policies.

B. Topography of the Area and Its Surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.

The proposal site, while seemingly flat, has a descending slope of approximately 10 feet from the northwest corner to the southeast. Surrounding topography to the north and northwest has a similar descending topography. In general, the project site can be characterized as being in a bowl with areas to the north, around NE 112th St having an elevation of 290 above sea level (ASL) then descending across the site and NE Northgate Way toward NE 108th St. to an elevation of approximately 242 (ASL) then slowly ascending to an elevation of 282 (ASL) and eventually ascending to an elevation 466 (ASL) around NE 90th St where it begins to descend again.

Per SMC 25.05.675.P, SEPA policy, it is the City's policy to protect public views of significant natural and human-made features including Mount Rainer, the Olympic and Cascade Mountains, the downtown skyline, and major bodies of water including Puget Sound, Lake Washington, Lake Union, and the Ship Canal, from public places consisting of the specified viewpoints, parks, scenic routes, and view corridors. The SEPA Ordinance also designates certain scenic routes identified as protected view rights-of-way. No adjacent streets have been identified as protected scenic routes.

The proposal site is located approximately two-miles east of the shoreline of Puget Sound, 3.5-miles west of the shoreline of Lake Washington, one-mile north of the shoreline of Green Lake. Due to existing development, changes in topography and vegetation, there are no views visible from the NE Northgate Way and Roosevelt Way NE project site. In addition, the proposed project would not adversely affect views from any of the viewpoints, parks, scenic routes, view corridors or public places under current or proposed height limits.

The Land Use Code does not include criteria for protection of views from private property. Private property views of the Cascade Mountains, Mount Rainier, Puget Sound, Lake Washington, and Green Lake would be blocked by topography and development built to the current maximum zoning at the site. Most the private property views in the area would not be obstructed by the proposed development built to the zoning maximum at this site. With respect to the several residential land uses located on the south side of across NE Northgate Way, opposite the proposal site, the development project will displace some territorial view of QFC's blank façade, while some views of completed Noren Pinehurst Townhouses and Live Work Units over the QFC parapet toward the gas station and mini market at the corner of NE Northgate Way and Roosevelt Way NE could be minimally impacted. Finally, the height, bulk and scale of the proposed development and relationship to nearby context have been addressed during the Design Review process.

C. Height and Scale of the Area.

1. The height limits established by current zoning in the area shall be given consideration.

The height limits established by current zoning for the proposal site (as well as the QFC site and the Noren Pinehurst Townhouses and Live Work Units to the north, the Northgate Village shopping area including TJ Maxx department store to the west, Walgreens pharmacy and adjacent shops to the southwest and the gasoline station and mini convenience store (mini mart) to the south is 55 feet. In addition, there is a small area consisting of four parcels of record designated as Lowrise 2 zone, (maximum height of 40 feet), located to the south of the proposal site, (on the south side of NE Northgate Way) just east of the gasoline station and mini mart. The zone encompasses four parcels with the following designated land uses per King County records. Each of the parcels located at 1019, 1023, and 1029 NE Northgate Way, is occupied by a single-story, single-family residential structure built in 1976, and located on a designated duplex lot. The fourth parcel located further east, at the southwest corner of NE Northgate Way and 11th Ave NE, (10845 11th Ave NE) is occupied by a recently constructed townhouse development consisting of eight, three story units.

In the larger context, the proposal site lies within the Northgate Urban Center, with height limits established by current zoning for structures located to the west of 8th Ave NE or two blocks west of the site of 75 feet and heights of up to 30 feet in the RSL designated zone located to the south of the LR2 zone.

The proposed development, with a 65-foot structure height, would be in line with proposed MHA legislation (SMC 23.58C an affordable housing incentive program authorized by RCW 36.70A.540) which authorizes additional height as an incentive for providing affordable housing, in connection with the City's strategy for increasing residential development capacity.

The rezone to 65 feet allows for additional affordable residential units, which is consistent with City policies to increase residential density in areas with good pedestrian, bicycle, and transit service.

The proposed development, with a 65-foot structure height, would be consistent with the predominant future height and scale of nearby redevelopment which is representative of the general area's overall development potential.

The recommendation to rezone to NC3-65' (M1) will be dependent upon recording a Property Use and Development Agreement (PUDA) which limits development to the proposed 65-foot building height.

2. In general, permitted height limits shall 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.

The subject site is in an NC3-55 zone in which most of the of the current land uses do not meet today's height targets of 55 feet. Most of the existing buildings located in the Northgate Village shopping center, to the west are one and two-stories in height. The shopping center contains a building structure that was built sometime in the 1969 and contains several commercial retailers including Rockler Woodworking and Hardware, Big 5 sporting goods, and TJ Maxx. Other buildings located on the south side of the shopping center, fronting NE Northgate Way include Umpqua Bank and the Discount Tires building both one-story in height and built some time in 1974. Located to the north of the proposal site is the QFC supermarket which was built in 1996 and stands approximately 32 feet in height. Located to the north of the supermarket is the recently completed four-story Noren Pinehurst Townhouses and Live Work; Units featuring seven Live/Work units and thirteen residential units, (SDCI record numbers 3032523-LU and 6508131-CN).

Some develop on the south side of NE Northgate Way consists of structures that were constructed between 1952 through 1974. Other more modern buildings were built between 1984 and 1999. Per King County records, the most recent of these is the Walgreens pharmacy located on the southwest corner of NE Northgate Way and Roosevelt Way NE constructed 23 years ago.

Other development located further west between 5th Ave NE and 8th Ave NE, within the current NC3-75 zoning designation (upzoned from NC3-65 during the 2019 Mandatory Housing Affordability legislation) include the 5-story Enclave Apartments and 24-Hour Fitness Gym at the corner of 5th Ave NE and NE Northgate Way. The structure approved to a height of 65 feet and built in 2008. Located to the immediate east is the 6-story 525 Northgate LLC apartments built in 2014 to a height of 65 feet. This property was initially targeted for a contract rezone from NC3-65 to NC3-85 (CF-312357) but was withdrawn prior to the final approval of the final

redevelopment proposal. The property now has a zoning designation of NC3-95 as a result of the 2019 MHA upzoning legislation.

Zoning designations further to the west includes the northern portion of Northgate Station (formerly Northgate Mall) with a 95-foot height limit. Zoning designations across from the shopping mall along the NE Northgate Way corridor range from NC3 95 closer to the I-5 freeway, NC3-75 to east, between 3rd Ave NE and 8th Ave NE with the NC3-55 going east from until the proposal site at Roosevelt Way NE. Multi-family Midrise (MR) and Lowrise 3 zoning designations are located to the north of the 95- and 75-foot height designations verbalized above.

In general, the proposed height limit of 65 feet would be compatible with the height and scale of existing development in other zones which have buildings that meet the maximum allowed heights prescribed in NC3-65 and NC3-95 zones or that have been granted additional height through the Contract Rezone process, namely the property at 10735 Roosevelt Way NE. A zoning change from LR3 (M) to MR (M1) allowing an 80-foot height limit was approved to the south of the development. (Ordinance 126540, CF 314441, SDCI Project 3033517-LU).

Finally, it should be noted that existing lower-scale development of older one- and two-story buildings, located within proximity of the development site in the NC3-55 zone, is not a good indicator of future development potential seen in other NC3 zones which have buildings that meet the maximum allowed heights on those zones.

D. Compatibility with Surrounding Area.

1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.

The subject site is in an NC3-55 zone in which most of the of the current land uses do not meet the current height targets of 55 feet as referenced above. The only other development that is of similar height at 55 feet is the recently completed Noren Pinehurst Townhouses and Live Work Units height.

However this proposal is for redevelopment project and rezone request for a mixed-use multifamily development designed to increase residential density, with pedestrian access to the QFC supermarket via mid-block connection from NE Northgate Way, provide new commercial retail, and add ground level landscaping, paving, and seating at a courtyard designed to the engage the public realm along NE Northgate, in similar fashion to the Enclave Apartments and 24-Hour Fitness Gym and the 525 Northgate LLC apartments located to the west, which are of similar height. This multifamily project would be compatible with the scale and height of

existing and future development to the west that have buildings that are 65, 75 and 95 feet in height.

2. ***A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in Subsection 23.34.008.D.2, are present.***

The proposed rezone would have minimal adverse impact to the transition areas between the proposal site and the existing Neighborhood Commercial 3 (NC3) zone and the adjacent Neighborhood Residential (NR) zone to east (formerly SF 7000) and the Lowrise 2 (LR2) zone to the south. The LR2 zone to the south is physically separated by a major arterial (NE Northgate Way) while the NR zone to the east is separated by 12th Ave NE, a small stream, and a neighborhood park.

To aid in softening the proposed building edge of development site and enhance the buffer between the LR2 zone to the south and the proposal site, a landscaped open space and along the buildings edge and appropriate street trees placed every 35 feet along the street edge facing the LR2 zone will be introduced.

E. Neighborhood Plans.

1. ***Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.***

In 1993 the Seattle City Council approved the Northgate Area Comprehensive Plan. While this plan and the City's current Comprehensive Plan do not provide specific height recommendations that are relevant to this proposal site, the Land Use policies and goals target concentrating the most intense and dense development within the urban core. The request for additional height is to provide affordable housing within a new development, in connection with increases in commercial and residential development capacity as directed by policy goals in the comprehensive plan. Approval of the contract rezone request for the additional height will promote Land Use polices outlined in the City's Comprehensive plan as follows:

NG-P5 Promote a mixture of activities including commercial and residential uses in areas that have Neighborhood Commercial and Residential Commercial zoning designations;

NG-P6 Promote additional multifamily housing opportunities for households of all income levels to the extent that a compatible scale and intensity of development can be maintained with adjacent neighborhood residential areas;

NG-P8.5 Support future potential rezones to higher-intensity designations in the North Core Subarea. In considering such rezones, pay particular attention to

the development of an environment that creates a network of pedestrian connections and that encourages pedestrian activity, among other considerations associated with a rezone review.

These goals are for the purpose of revitalizing underdeveloped areas with higher-density buildings that aid in creating more affordable housing within proximity to commercial retail and support service, creating neighborhood open spaces and making streets more pedestrian-friendly. The request for the additional 10 feet of height is for the purpose of achieving these goals.

2. ***Neighborhood plans adopted or amended by the City Council after January 1, 1995 may require height limits different than those that would be otherwise established pursuant to the provisions of this section and Section 23.34.008.***

The Northgate Area Comprehensive Plan was adopted in 1993 pre-dating January 1, 1995, so the criteria associated with this criterion is not applicable.

However, while not a neighborhood plan, the Northgate Urban Center and Overlay District Design Guidelines were first created in 2003 with the Design Guidelines being updated in 2009, and again in 2013. The guidelines discuss ways of mitigating height at zoning edges between higher and lower density scaled buildings. The proposal site is located within an NC3-55 zone physically separated from the closest lower LR2 zone to the south by a principal arterial and Neighborhood Residential to the east, physically separated by a park, a stream, and a local street. The proposed development has gone through the Design Review process, which considered aspects of scale and context in the design recommendation.

Finally in the adopted neighborhood plan goals and policies for the Northgate Urban Center adopted by City Council and included in the Seattle 2035 Comprehensive Plan October, there are no specific policies that address height. The site is however located in a zone with an incentive zoning suffix (M). An M1 zoning suffix is anticipated to be adopted for the property under this contract rezone proposal.

SMC 23.34.009 Conclusion: The additional height increase that would result in a change of zoning from NC3-55 to NC3-65 would meet the criteria of SMC Section 23.34.009, as described above. No additional views from private property would significantly be blocked by the additional building height resulting from the contract rezone.

SMC 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;

The subject site is in the Northgate Urban Center boundary which has a concentration of pedestrian oriented commercial development, high density housing, offices, and business support services all within convenient access to regional transit station. The Sound Transit light rail station is located within one half mile from the site, with commercial and office employment opportunities located nearby.

The proposed development would provide additional commercial development connected to an already existing shopping area and increased housing density within the Northgate Core area a target goal of the Comprehensive Plan Land Use policy: Northgate NG-P1.

The existing nonresidential land uses consisting of Patty's Egg Nest and Jiffy Lube would be replaced with a mixed-use development that would provide commercial uses on the ground level, with affordable multifamily units above and a residential and shopper and employee base.

1. **A variety of sizes and types of retail and other commercial businesses at street level;**

The proposal site is in the Northgate Overlay District & Urban Center, an area consisting of a variety of small, medium, and large neighborhood businesses within and outside the Urban Center. Commercial uses in the area consist of street level pedestrian-friendly, shopping along both sides NE Northgate, between Roosevelt Way NE and 5th Ave NE further to the west. Larger commercial retail establishments include QFC supermarket, TJ Max to the north and northwest of the site, banking outlets, eating, and drinking establishments along with numerous other businesses all within close walking and biking distance or closer to Northgate Station a 10-to-15-minute walk away.

The proposal site and future land use redevelopment feature a mixed-use commercial, high-density residential development appropriate for an NC3 zone. The redevelopment will provide ground level commercial uses, adding to the other ground level and regional commercial uses in the area and a resident shopper base for the area.

2. Continuous storefronts or residences built to the front lot line;

This criterion is not completely being met by the redevelopment of the proposal site. However, upon approval of the Contract Rezone and the completion of the redevelopment project, the proposed commercial uses and the number of residential units will serve to meet the intent of this criteria. The proposed development will feature approximately 7,000 square feet of commercial space located at the southwest corner of the building. This placement aids in establishing a strong street presence at the corner of NE Northgate Way and Roosevelt Way NE

as a prominent anchor. Further the development will feature residential units at ground at level but rather being built to the front lot, will be pushed back away from the NE Northgate Way to accommodate landscaping, including paving and seating designed to the engage the public realm while establishing a degree of privacy for ground-level living units.

3. Intense pedestrian activity;

While at present this criterion is not completely being met, the approval of the Contract Rezone and completion of the redevelopment project will change the character of the land uses on the site from high intensity auto-oriented use to more pedestrian oriented use. The proposed placement of the commercial retail space at the northeast corner of NE Northgate Way and Roosevelt Way NE and the landscaped courtyard along the building face further east will serve as anchors for building tenants and pedestrian activity as result of greater pedestrian comfort and visual interest.

4. Shoppers can drive to the area, but walk from store to store;

As the proposal site is in an area that is a regional and local shopping destination, shoppers can drive to the area and park at several locations including the project site which will have 80 plus resident – shopper below grade parking spaces. In addition, residents and shoppers alike will be able to have a heightened pedestrian experience along the sidewalk adjacent to NE Northgate with the addition of landscaped mid-block courtyard, small plaza and seating and a thru-block pedestrian connection from 'Northgate Way' to the supermarket and point beyond.

5. Transit is an important means of access.

The proposal site is located within an urban center near a business district and connected to a transportation hub (Northgate Station) for both light rail, bus, and bicycle travel. The station along with other restaurant and shopping amenities is about a 10-15 minute from the project site. Further the proposal site is served by four different King County Transit bus lines all in close within walking distance of the project site which also serves and is served by public transit and bicycle lanes. Routes 347 and 348 in the north and south bound directions along Roosevelt Way NE with a stop at the northeast corner of Roosevelt and Northgate. In additions routes 20 and 320 run along NE Northgate Way in the east and west bound directions. Route 73 runs in the north south bound directions along 15th Ave NE two blocks east of the site, which is a major connector to points south including the University District.

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

1. Primary business districts in residential urban villages;

The proposal site is located within an urban center in a business district connected to a regional shopping area within walking distance that is served by public transit. The proposed redevelopment project is designed to take advantage of existing pedestrian scaled retail near the site, featuring smaller and larger, national brand retailers, financial institutions, small business outlets, to the northwest and along and along NE Northgate Way, on the way to the Northgate Station a regional transit and shopping destination. In addition, there are also medical and other offices and business support services all within the Northgate Core area, within the Northgate Urban Center or inside the larger context of the Northgate Overlay district.

The proposed zoning designation would allow for an increase in floor area ratio (FAR) from 3.75 to 4.5, and housing density by promoting additional multifamily housing opportunities for households of all income level (Northgate Policy NG-P6) and increase and promote a mixture of commercial and residential uses in areas that have Neighborhood Commercial and Residential Commercial zoning designation per NG-P5.

2. ***Served by principal arterials;***

The proposal site which fronts NE Northgate Way running in an east-west direction, is served by this and two other principal arterials, Roosevelt Way NE running north-south and Pinehurst Way NE. Roosevelt transitions into Pinehurst at the intersection of NE 113th St, where it begins to turn in a northeast direction.

3. ***Separated from low-density residential areas by physical edges, less intense commercial areas or more intense residential areas;***

The proposal site has a strong edge that buffers the proposal site from other lower density land uses to the south and to the east. The site is physically separated from the Neighborhood Residential zone to the east by the existing bioretention pond, Victory Creek Park and Thornton Creek, NE 112th Street which runs in a north-south direction. The site is also physically departed from the LR2 zone to the south by NE Northgate Way a major arterial with sidewalks and planting strips and a total right-of-way width of between 73 and 76 feet. The proposal site will continue to satisfy this criterion, after it is redeveloped.

4. ***Excellent transit service.***

The site has excellent transit service along NE Northgate Way. The proposal site is located within a 10–15-minute walk to a major transportation hub (Northgate Station) for light rail, bus, and bicycle travel. Further the proposal site is served by four King County Transit bus lines within walking distance of the project site. These routes consist of 347 and 348 running a in the north and south directions along Roosevelt Way NE with a stop at the northeast corner of Roosevelt and Northgate, routes 20 and 320 running along NE Northgate Way in

the east and west direction and route 73 running in a north south bound directions along 15th Ave NE two blocks east of the site.

SMC 23.34.078 Neighborhood Commercial 3 (NC3) zones: Conclusion: The additional height increase that would result in a change of zoning from NC3-55 (M)to NC3-65 (M1) would meet the criteria of SMC Section 23.34.076, as described above. The project would support pedestrian-oriented shopping which is supported by a variety of access, shopping, and transit options.

RECOMMENDATION – REZONE

Based on the analysis in this report, the SEPA analysis of the rezone and project proposal, and the provisions in SMC 23.34, the Director recommends that the proposed contract rezone from Neighborhood Commercial three with a 55-foot height limit with M suffix [NC3-55-M)]to Neighborhood Commercial three with a 65-foot height limit with M1 suffix [(NC3-65 (M1)], be **CONDITIONALLY APPROVED** with the condition that the Property Use and Development Agreement limits development to the proposed building which is approximately 65-feet in height, subject to the conditions summarized at the end of this report.

III. ANALYSIS – SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (RCW 43.21C), Washington Administrative Code (WAC) 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The Seattle Department of Construction and Inspections (SDCI) has annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the project file submitted by the applicant or agents; and considered any pertinent comments which may have been received regarding this proposed action. The information in the environmental checklist, the supplemental information, and the experience of the lead agency with the review of similar projects, form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part, "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations.

Under such limitations/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

SHORT TERM IMPACTS

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, a small increase in traffic impacts due to construction related vehicles, exposure of hazardous materials, and increases in greenhouse gas emissions. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. Short term impacts, as well as mitigation, are identified in the environmental checklist annotated by SDCI with additional analysis provided below.

Air Quality – Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, no further mitigation is warranted pursuant to SMC 25.05.675.A (Air Quality Policy).

Construction Impacts – Traffic

Increased trip generation is expected during the proposed demolition, grading, and construction activity. The area is subject to significant traffic congestion during peak travel times on nearby arterials. Large trucks turning onto arterial streets would be expected to further exacerbate the flow of traffic. It is the City's policy to minimize temporary adverse impacts associated with construction activities.

However, the amount of excavation and size of construction will result in a small and temporary increase in truck trips. Any closures of the public right of way will require review and permitting by Seattle Department of Transportation. Additional mitigation is not warranted pursuant to SMC 25.05.675.B (Construction Impacts Policy).

Pursuant to SMC 25.05.675.B (Construction Impacts Policy), additional mitigation is warranted, and a Construction Management Plan is required, which will be reviewed by Seattle Department of Transportation (SDOT). The requirements for a Construction Management Plan

include a Haul Route Plan. The submittal information and review process for Construction Management Plans are described on the SDOT website.

Construction Impacts – Noise

The project is expected to generate loud noise during demolition, grading, and construction. The Seattle Noise Ordinance (SMC 25.08.425) permits increases in permissible sound levels associated with private development construction and equipment between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00PM on weekends and legal holidays.

If extended construction hours are necessary due to emergency reasons or construction in the right of way, the applicant may seek approval from SDCI through a Noise Variance request. The applicant's environmental checklist does not indicate that extended hours are anticipated.

A Construction Management Plan will be required prior to issuance of the first building permit, including contact information in the event of complaints about construction noise, and measures to reduce or prevent noise impacts. The submittal information and review process for Construction Management Plans are described on the SDOT website at: Construction Use in the Right of Way. The limitations stipulated in the Noise Ordinance and the CMP are sufficient to mitigate noise impacts; therefore, no additional SEPA conditioning is necessary to mitigate noise impacts pursuant to SMC 25.05.675.B (Construction Impacts Policy).

Construction Impacts – Mud and Dust

Approximately 18,847 cubic yards of earthwork will occur for proposed buildings and utilities as well as backfill and general site grading. Transported soil is susceptible to being dropped, spilled, or leaked onto City streets. The City's Traffic Code (SMC 11.74.150 and 160) provides that material hauled in trucks not be spilled during transport. The City requires that loads be either 1) secured/covered; or 2) a minimum of six inches of "freeboard" (area from level of material to the top of the truck container). The regulation is intended to minimize the amount of spilled material and dust from the truck bed enroute to or from a site.

No further conditioning of the impacts associated with these construction impacts of the project is warranted pursuant to SMC 25.05.675.B (Construction Impacts Policy).

Earth

The proposal is not anticipated to have a negative effect on any critical area. However, the City's GIS layer indicates that a portion of the proposal site located on the far easterly side of 1020 NE Northgate Way may be encumbered by a wetland buffer which pertains to a nearby but off-property bioretention pond. The applicant provided a Wetland Report & Stream Determination Report prepared by Acre Environmental Consulting, LLC. October 22, 2019, indicating that the area adjacent to the proposal site and the wetland adjacent to Victory Creek

do not meet the requirements for jurisdictional wetlands as they are man-made stormwater facility associated with the QFC development to the north. It is not a critical area, and to the applicant's knowledge, it is not connected with proposal.

No other critical areas are known to be present on or within 25 feet of the Property. Any final proposal to redevelop the Property will comply with all applicable ECA regulations.

Environmental Health – Contamination

The applicant submitted a Phase II Environmental Assessment; (Geophysical Survey & Phase II Subsurface Assessment, Environmental Associates, Inc., January 8, 2015) for the purpose of evaluation contamination on the proposal site: The report states that in October 2014, Environmental Associates, Inc. conducted a Phase I Environmental Site Assessment which identified the former presence of a gasoline station on the western portion of the property as "recognized environmental condition" (REC). The Phase I assessment also identified the currently on-site automotive oil change specialty shop called Jiffy Lube service as meeting the definition of a REC as well.

The assessment concluded that the past operation of the gasoline service station appears to have resulted in trace level environmental impacts to both the soil and groundwater. The report goes on to say that the low residual concentrations of petroleum products at the locations sampled and laboratory testing do not exceed Washington State Department of Ecology (WDOE) target compliance levels for unrestricted land use.

The report goes on to state that landowners and facility operators who have knowledge that contamination exists at the property/facility are advised to report their findings to the WDOE within 90 days of discovery according to the Washing State Model Toxic Control Act (MTCA: WAC 173-340). The conclusion also states that acknowledging that none of the findings to date exceed WEOE target compliance levels for unrestricted land use, the findings of the preliminary do not appear to trigger the requirement for site reporting.

However, adherence to MTCA provisions and federal and state laws would be anticipated to adequately mitigate any significant adverse impacts from existing or future contamination should they be discovered and/or determined to be significant.

Mitigation of contamination and remediation is the jurisdiction of Ecology, consistent with the City's SEPA relationship to Federal, State and Regional regulations described in SMC 25.05.665.F (Environmental Health Policy). This State agency program functions to mitigate risks associated with removal and transport of hazardous and toxic materials, and the agency's regulations provide sufficient impact mitigation for these materials. The City acknowledges that Ecology's jurisdiction and requirements for remediation will mitigate impacts associated with any contamination.

The proposed strategies and compliance with Ecology's requirements are expected to adequately mitigate the adverse environmental impacts from the proposed development and no further mitigation is warranted for impacts to environmental health pursuant to SMC 25.05.675.F (Environmental Health

Environmental Health – Asbestos and Lead

Construction activity has the potential to result in exposure to asbestos. Should asbestos be identified on the site, it must be removed in accordance with the Puget Sound Clean Air Agency (PSCAA) and City requirements. PSCAA regulations require control of fugitive dust to protect air quality and require permits for removal of asbestos during demolition. The City acknowledges PSCAA's jurisdiction and requirements for remediation will mitigate impacts associated with any contamination. No further mitigation is warranted for asbestos impacts pursuant to SMC 25.05.675.F (Environmental Health Policy).

Construction activity has the potential to result in exposure to lead. Should lead be identified on the site, there is a potential for impacts to environmental health. Lead is a pollutant regulated by laws administered by the U. S. Environmental Protection Agency (EPA), including the Toxic Substances Control Act (TSCA), Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), Resource Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) among others. The EPA further authorized the Washington State Department of Commerce to administer two regulatory programs in Washington State: the Renovation, Repair and Painting Program (RRP), and the Lead-Based Paint Activities Program (Abatement). These regulations protect the public from hazards of improperly conducted lead-based paint activities and renovations. No further mitigation is warranted for lead impacts pursuant to SMC 25.05.675.F (Environmental Health Policy).

LONG TERM IMPACTS

Long term or use-related impacts are also anticipated as a result of approval of this proposal. Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. Long term impacts, as well as mitigation, are identified in the environmental checklist annotated by SDCI with additional analysis provided below.

Air Quality – Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global

warming. While these impacts are adverse, no further mitigation is warranted pursuant to SMC 25.05.675.A (Air Quality Policy).

Height, Bulk, and Scale

The proposal has gone through the design review process described in SMC 23.41. Design review considers mitigation for height, bulk and scale through modulation, articulation, landscaping, and façade treatment.

Section 25.05.675.G.2.c of the Seattle SEPA Ordinance provides the following: "The Citywide Design Guidelines (and any Council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk, and scale impacts addressed in these policies. A project that is approved pursuant to the Design Review Process shall be presumed to comply with these Height, Bulk, and Scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk, and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decision maker pursuant to these height, bulk, and scale policies on projects that have undergone Design Review shall comply with design guidelines applicable to the project."

The additional height that would result from the proposed rezone will allow the building to increase residential density mandated through the City's MHA/HALA rezone requirements. Further the height, bulk and scale of the proposed development and relationship to nearby context have been addressed during the Design Review process. Pursuant to the Overview policies in SMC 25.05.665.D, the existing City Codes, and regulations to mitigate impacts to height bulk and scale are presumed to be sufficient, and additional mitigation is not warranted under SMC 25.05.675.G.

Historic Resources

The existing structures on site are more than 50 years old. These structures were reviewed for potential to meet historic landmark status. The Department of Neighborhoods reviewed for compliance with the Landmarks Preservation requirements of SMC 25.12 and indicated these existing structures are unlikely to qualify for historic landmark status (Landmarks Preservation Board letters, reference number LPB 13023, dated April 11, 2023). Per the Overview policies in SMC 25.05.665.D, the existing City Codes, and regulations to mitigate impacts to historic resources are presumed to be sufficient, and no further conditioning is warranted per SMC 25.05.675.H.

Plants and Animals

The applicant submitted an arborist report prepared by Tree Solutions Inc, Consulting Arborists, February 25, 2022, in which all trees measuring six inches in diameter or greater were assessed. According to the report there are currently 6 trees growing on site, none of which have been

identified as qualifying as exceptional due to their size according to Director's Rule 16-2008. Five trees currently growing along the eastern portion of the shared right of way were identified as Callery pear trees (Pyrus calleryana) while a sixth tree tagged as,1469, located near the eastern property line was identified as a red alder (Alnus rubra) having a diameter of 19 inches. While the red alder is of a larger size, it does not meet the definition for exceptional trees as it is not located in grove of trees of eight or more.

The report identifies a number of trees smaller than the six-inch threshold called out as 'pear tree (non-regulated)' growing in a row along the western portion of the shared right of way. The report also identifies two adjacent trees located off site along the eastern property line that were required to be documented as they appeared to be greater than six inches in diameter and their driplines extend over the property line.

The recommendation in the report stated that any retained site trees and adjacent trees should be protected during construction. Any pruning should be conducted by an ISA certified arborist following ANSI A300 specifications.

The tree preservation plan discussed in the arborist report prepared by Tree Solutions, is required to be adhered to for all work associated with the project's demolition, excavation, shoring, and construction permit plans. No mitigation beyond the Code-required tree replacement landscaping is warranted under SMC 25.05.675.N.

Public View Protection

SMC 25.05.675.P (Public View Protection Policy) provides policies to minimize impacts to designated public views of significant natural and human-made features listed in that subsection. The proposed project would not adversely affect views from the listed public places under current or proposed height limits. The SEPA Ordinance also designates certain scenic routes identified as protected view rights-of-way. No adjacent streets have been identified as protected scenic routes. The proposed development does not block views of any nearby historic landmarks. No mitigation is warranted pursuant to SMC 25.05.675.P (Public View Protection Policy).

Shadows on Open Space

SMC 25.05.675.Q (Shadows on Open Space Policy) provides policies to minimize or prevent light blockage and the creation of shadows on certain open spaces most used by the public. Areas outside of downtown to be protected include publicly owned parks, public schoolyards, private schools that allow public use of schoolyards during non-school hours, and publicly owned street-ends in shoreline areas. The proposed project is located to the west of Victory Creek Park a small neighborhood park that 'sits behind' the QFC store, running in a north-south direction along the west side of 12th Ave NE and features a creek, a short walking path, with benches and picnic tables.

The applicant provided a shadow study in their Design Review recommendation packet prepared by (AXIS/GFA 04.28.2023) demonstrating that the proposed development would contribute to the greatest amount of shading of Victory Creek Park during the Winter solstice. Much of the shading would occur around 3 PM near the north-western portion of the park, which might be characterized as the northern 1/3 portion of the park. While the park is used year around, the highest usage is generally from early May to early September. During the summer months the park would not be in shade. The most extensive shading would occur around 3 PM during the winter months.

The shadow assessment as it relates to the proposed building height and potential shadows cast on Victory Creek Park have minimal adverse impact on the park and, therefore, no mitigation is warranted pursuant to SMC 25.05.675.Q (Shadows on Open Space Policy).

Transportation

A Transportation Impact Analysis prepared by Transportation Engineering NorthWest, January 9, 2023, indicated that the project is expected to generate approximately 400 weekday daily vehicle trips with approximately 23 occurring during the weekday AM peak hours and 35 trips during the PM peak hours.

The distribution of the vehicle trips generated by the proposed project onto the nearby street system was estimated based on DCI Director's Rule 2009-5. The additional trips are expected to be distributed on various roadways near the project site as follows:

NE Northgate Way east - west direction 15%
Interstate 5 (I-5) southbound 25%
Interstate 5 (I-5) northbound 15%
5th Ave NE northbound 10%
Pinehurst Way NE northbound 10 %
Roosevelt Way NE north - south direction 10%

These additional trips are expected to have a minimal impact on levels of service at nearby intersections and on the overall transportation system. The report also states that the Roosevelt Way NE/NE Northgate Way off-site signalized study intersection is anticipated to operate at LOS D or better during the weekday AM and PM peak hours without and with the proposed project. Further the report also states that controlled movements at the site access driveways are expected to operate at LOS C or better with minimal queuing in 2025 during the weekday AM and PM peak hours. Finally, the report demonstrates that the evaluated screenlines would continue to operate below the concurrency threshold with construction of the project. As a result, no concurrency related mitigation is warranted or required for the project.

The SDCI Transportation Planner reviewed the information and determined that no mitigation is warranted per SMC 25.05.675.R (Traffic and Transportation Policy).

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

☒ Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC 197-11-355 and Early review DNS process in SMC 25.05.355. There is no further comment period on the DNS.

CONDITIONS – DESIGN REVIEW

Prior to MUP Permit Issuance

1. Add greater transparency to the west facing lobby wall located just to the north of the vestibule.

2. Create seating nodes along NE Northgate Way by forming a more 'L' shape seating configuration with some seating facing the front entry interspersed with other site features such as bollards, planters, or trash containers to break up the long expanse of bench seating into smaller seating nodes.
3. Modify the large building sign on the west building façade to be of a scale that is consistent with the scale and character of the area.

Prior to Certificate of Occupancy

4. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting

and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner.

For the Life of the Project

5. 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

RECOMMENDED CONDITIONS – REZONE

The Director recommends approval of the contract rezone from NC3-55 (M) to NC3-65 (M1) subject to the following conditions, which should be contained in the PUDA:

Prior to Issuance of a Master Use Permit

6. The rezone includes a Mandatory Housing Affordability designation of M1.

7. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58B and/or 23.58C.

Prior to Issuance of a Building Permit

8. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3039050-LU.

RECOMMENDED CONDITIONS – SEPA

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

9. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website.

10. The plans shall show the tree preservation plan, consistent with the arborist report on files with SDCI, prepared by Tree Solutions, dated February 25, 2022.

David Landry, AICP, Sr. Land Use Planner Date: July 6, 2023
Seattle Department of Construction and Inspections

DL:adc
3039050-LU Decision.docx

Case Name/Number: Andrew Kluess, CF-314513

Exhibit List

August 14, 2023

Department Exhibits	Document Title	Document Date	Admitted?
1	Site Photographs		Y
2	Comparative – Existing Zoning and Land Use Maps; GIS Existing and Proposed Rezone Map		Y
3	Approved Pre-Submittal Meeting Notes		Y
4			Y
4a	Administrative Design Review – Early Design Guidance (EDG) Packet		
4b	Administrative Design Review – Early Design Guidance (EDG) Report		
5	Master Use Permit (MUP) Application		Y
6	Applicant Statement of Financial Responsibility		Y
7	Office of Housing – Affordable Housing Checklist		Y
8	Office of Housing Affordable Housing Approval Letter		Y
9			Y
9a	Original MUP Public Notice	November 28, 2022	
9b	Original MUP Public Notice and Public Comments Submitted	December 26, 2022	
10			Y
10a	Revised MUP Public Notice for Contract Rezone	February 21, 2023	
10b	Original MUP Public Notice and Public Comments Submitted	March 6, 2022	
11	Rezone Application Submittal Information		Y
12			Y
12a	Administrative Design Review Recommendation Packet		
12b	Administrative Design Review Recommendation Report		
12c	Administrative Design Review – Recommendation Conditions of Approval; Applicant Response Letter		
13	MUP and SEPA Analysis; SEPA Checklist		Y
14	MUP and SEPA Analysis; SEPA Greenhouse Gas Emissions Checklist		Y
15	MUP and SEPA Analysis; Traffic and Transportation Impact Analysis		Y
16	MUP and SEPA Analysis; Soils Geotechnical Report		Y
17	MUP and SEPA Wetland & Stream Determination		Y

18	MUP and SEPA Analysis; Phase II Environmental Assessment		Y
19	MUP and SEPA Analysis; Arborist Report		Y
20	MUP and SEPA Analysis; SPU Solid Waste Approval		Y
21	MUP and SEPA Analysis; SPU Water Availability Certificate		Y
22			Y
22a	MUP and SEPA Analysis; Department of Neighborhoods (DON) Historic Preservation Review Appendix A		
22b	MUP and SEPA Analysis; Department of Neighborhoods (DON) Landmarks Preservation Board Historic Review Determination Letter		
23	MUP and SEPA Analysis Zoning and MHA Completed Reviews		Y
24	MUP and SEPA Analysis SEPA Checklist (Annotated)		Y
25	MUP Analysis Decision and Recommendation		Y
26	Hearings Examiner Public Notice		Y
27	Director SEPA Determination Hearings Examiner Requested Action		Y
Applicant Exhibits	**Document Title**	**Document Date**	**Admitted?**
1	Rezone Presentation		Y
2	Rezone Presentation		Y
3	Rezone Presentation		Y

Exhibit 9.b.

Original MUP Public Notice 11/28/22

PUBLIC COMMENTS

COMMENT SUBMITTED THROUGH 12/26/22.

Public Comment

Condition Name

Public Comment

Applied Date

12/14/2022

Commenter Name

Victor Rini

Additional Information

Anonymous

Prior comments to this project appear to be unavailable. Many cogent points were made. Most concerning is the traffic in the alley between this proposed building and the QFC which also includes the QFC's loading dock. This apparently unaddressed issue means in my view accidents waiting to happen between vehicles proceeding to and from the proposed apartment building, to and from the QFC parking lot and trucks to and from the loading dock. The building is an alienating presence where it is situated, out of character with surrounding structures. I oppose the construction of this project.

Comment submitted on: Wed Dec 14 2022 14:08:55 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Type *

Public Comment

Condition Name

Public Comment

Applied Date

12/14/2022

Commenter Name

Victor Rini

Additional Information

Anonymous

And I forget to mention pedestrians. Many people walk to the QFC from an increasingly dense housing mix in the area. I've shopped at the QFC since it opened there nearly 30 years ago. For a pedestrian, dodging drivers in a hurry is getting increasingly challenging.

Comment submitted on: Wed Dec 14 2022 15:57:48 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

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Public Comment

Condition Name

Public Comment

Applied Date

12/19/2022

Commenter Name

Eliza Parsons

Additional Information

Anonymous

If this is approved it needs drastic pedestrian safety changes before it can happen. Spend just 20 minutes at Patty's Eggnest and you will see how many people utilize this area on foot. The "easement" between the QFC and this project site is already not sufficient for cars, delivery trucks, and pedestrians.

In reading the minutes it sounds like daycare isn't definitely happening, so that sucks that it's being marketed to the neighborhood that it is. If the daycare does happen with the preferred layout, the playground would be in the shade ALL day and would be so close to all the traffic coming in and out of the easement area. Consider having the daycare on the east side of the project closer to the park and away from the easement. This project removes 3-4 curb cuts/entries and exits to the QFC. Think about how that impacts the easement location and the increase in vehicle traffic overall. Think about it for both the daycare and the pedestrians! This design proposal has so much information about "bulk" and "scale compatability" but no research that shows how many pedestrians will be impacted.

Honestly, I love this project in that it is adding low income housing and (potentially) a daycare. However, it removes a very necessary local restaurant that supports elder folks in the area who are already quite isolated. This restaurant allows for easy parking and important socializing for our elders. Where will they go?

Comment submitted on: Mon Dec 19 2022 15:45:21 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

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Public Comment

Condition Name

Public Comment

Applied Date

12/19/2022

Commenter Name

Tom Johnson

Additional Information

Tom Johnson

What perfect location for some sorely needed housing for ordinary people! I support this project enthusiastically.

Comment submitted on: Mon Dec 19 2022 18:10:22 GMT-0800 (PST)

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Public Comment

Condition Name

Public Comment

Applied Date

12/21/2022

Commenter Name

Victor Rini

Additional Information

Anonymous

One participant here believes it is useful to locate the daycare "close to the park". The "park" has been overrun for years by the homeless and neglected by the parks department despite their occasional efforts. When the park was first established I used to take my kids there to play on the play structure. Then the homeless started showing up spending countless hours hanging about on the park benches and then eventually with nothing to do they vandalized the play structure burning holes in it with their cigarettes and drugs. People had long since stopped bringing their kids there. So the parks department removed the play structure and the place has only gone further downhill ever since. The peak of the homeless crisis may have passed but tents and trash are still a semi-regular appearance there. Locating a daycare "close to the park" is no solution. Between this new building and the park is an unattractive, fenced retention pond. My wife once witnessed a homeless person defecating in the space between the jiffy lube garbage/recycling bins and the retention pond fence. To the developers I say good luck on selling us old timers in the neighborhood on your "daycare".

Comment submitted on: Wed Dec 21 2022 13:14:55 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Type *

Public Comment

Condition Name

Public Comment

Applied Date

12/26/2022

Commenter Name

Patrick Benitez

Additional Information

Patrick Benitez

I hope this building can be approved as quickly as possible. After all, it has been under review for a year now, which is really far too long but I'm sure you are constrained. I am glad to see 179 homes planned, all located within walking distance to parks, a grocery store, a department store and several local businesses, several bus lines and the light rail.

Comment submitted on: Mon Dec 26 2022 20:16:35 GMT-0800 (PST)

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Type *

Public Comment

Condition Name

Public Comment

Applied Date

12/29/2022

Commenter Name

Donald and Marianne Marshall

Additional Information

Anonymous

Concerns not addressed in the proposal:

1. increased vehicle parking in the area.

There is no study or discussion of how many residents of the proposed building will park in the neighborhood or in the adjacent QFC parking lot. Currently there are times when

there are no parking spaces at the QFC store when we try to shop there. Even if residents do not park in the QFC parking lot, their visitors might. We suspect that 88 parking

spaces for 176 residences are far to few.

2. increased traffic on Northgate Way.

It is common for traffic to be backed up from Lake City Way past 23rd NE, and sometimes as far as 20th NE. How will the addition of this building increase the traffic in the area?

3. Large differences in building heights.

We agreed to the development of the area surrounding the former Northgate Mall which included increased heights. The allowed heights in the area purposely decreased over

several blocks until it reached one story residences. The current proposal seeks to increase the height limit to 65 feet, directly across the street from single family residences.

Comment submitted on: Thu Dec 29 2022 17:39:34 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Type *

Public Comment

Condition Name

Public Comment

Applied Date

12/29/2022

Commenter Name

Nora Buettner

Additional Information

Anonymous

As a longtime resident in the Northgate neighborhood I object to the construction of a 7-story building on that site. Why?

The traffic congestion it will cause. In past reports Northgate Way was on of the busiest arterials in Seattle. This new construction has 179 units with 88 parking spaces. In reality people are NOT giving up their cars and many households have two cars. If you drive through neighborhoods where large apartment buildings with few parking spaces have replaced existing homes/buildings the overflow of vehicles is creating a parking nightmare for the neighbors. Sometimes making the streets almost impassable.

Currently there are two large housing construction sites in the Northgate area. One on Roosevelt just north of Northgate Way (previously Costume Supply) and another between 5th and 8th Ave. NE (previous site of Waldo Hospital).I do not know the number of units or parking spaces these projects will have but the streets are already lined with vehicle overflow from the other large apartment buildings constructed in the last few years.

And let's not ignore visibly and pedestrian safety. A project that large on that site is uncharacteristic for the neighborhood.

Comment submitted on: Thu Dec 29 2022 08:36:51 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Exhibit 10.b.

Original MUP Public Notice 11/28/22

PUBLIC COMMENTS

COMMENT SUBMITTED THROUGH 3/6/22.

Type *

Public Comment

Condition Name

Public Comment

Applied Date

02/23/2023

Commenter Name

SK D

Additional Information

SK D

This proposed monstrosity of an apartment complex is obscenely horrendous. Seven sun-blocking stories? It will just perpetuate Seattle's cancerous growth-at-all-costs? paradigm of wedging in even *more* people and bumper-to-bumper traffic into an area that is already way beyond over-saturated. How many perfectly fine small businesses have to be destroyed to make way for these over-sized behemoths? It's horrible enough that Display & Costume was destroyed for yet *another* apartment monstrosity. Enough!! Furthermore, proposing that a gargantuan complex of some 179 units has only 88 parking slots demonstrates clearly that city planners are totally out of touch with the nightmare that is current parking reality. Good luck with trying to park at the neighboring QFC on weekends for shopping. The situation there and in surrounding areas is *not* going to improve! It is absurd to think that residents of some 50% of the proposed units in this ill-advised project will not own cars that need to be put *somewhere*. And please don't worry about visitors and their cars... Where are they to go?

Comment submitted on: Thu Feb 23 2023 12:58:19 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Type *

Public Comment

Condition Name

Public Comment

Applied Date

03/04/2023

Commenter Name

Katrina Olson

Additional Information

Katrina Olson

It’s great to see affordable housing in a region that desperately needs it. Developer appears to have good track record of projects integrating well into community. With only street parking available in my townhome, I’m relieved to see 88 spots going in with development; otherwise parking will become a problem.

Comment submitted on: Sat Mar 04 2023 07:58:54 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Type *

Public Comment

Condition Name

Public Comment

Applied Date

03/04/2023

Commenter Name

Matthew Primmer

Additional Information

Matthew Primmer

Thank you for including parking. As a neighbor with really limited parking I worry about where all the cars will go. I'm happy to see garage parking for the tenants.

Comment submitted on: Sat Mar 04 2023 07:54:11 GMT-0800 (PST)

View as PDF (includes supporting documents if provided)

Type *

Public Comment

Condition Name

Public Comment

Applied Date

03/13/2023

Commenter Name

Erica Lee

Additional Information

Anonymous

As someone who lives across the street from this project (in The Park at Northgate, another apartment community slated for demolition so the developer can build taller buildings and smaller units without enough parking to accommodate the number of units they are proposing), I am vehemently against this project. Parking *will* be an issue for residents who will be charged too much to park due to scarcity and for those in the surrounding areas who's property will become inundated with parked cars. There is also the new apartment community being built where the costume store was, the projects already happening on 8th Ave, and then The Park at Northgate being torn down. (Our residents who are just moving in now are not being told about this demolition, by the way. Office staff said, "There's nothing to tell.") I have several elderly neighbors in The Park at Northgate who walk to QFC and the TJ Maxx shopping center on a regular basis. The number of tall new buildings will completely destroy the sightline and impact the safety we already experience at this intersection. Also, will these new "affordable" units have air conditioning installed? If not, it's definitely not worth moving forward due to the extreme heat Seattlites are really starting to experience and that will only become worse.

Comment submitted on: Mon Mar 13 2023 14:09:53 GMT-0700 (PDT)

View as PDF (includes supporting documents if provided)

Exhibit 24

MUP and SEPA Analysis

SEPA CHECKLIST (ANNOTATED)

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal,** even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in "Part B: Environmental Elements" that do not contribute meaningfully to the analysis of the proposal.

A. Background Find help answering background questions

1. **Name of proposed project, if applicable:**

   1020 NE Northgate Way

2. **Name of applicant:**

   GMD Development, LLC

3. **Address and phone number of applicant and contact person:**

   Attn: Emily Thompson, 520 Pike St, Ste 1010; (206) 745-3698

4. **Date checklist prepared:**

   Feb. 17, 2023

5. **Agency requesting checklist:**

   Seattle Department of Construction & Inspections (SDCI)

6. **Proposed timing or schedule (including phasing, if applicable):**

   The project seeks to receive a Master Use Permit and Seattle City Council approval for the rezone by the end of calendar year 2023, and to commence construction in calendar year 2024 and complete full buildout in 2025. No project phasing is proposed.

7. **Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

   No future additions, expansion, or other further activity is planned in relation to or connection with this proposal.

8. **List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

   1) Geophysical Survey & Phase II Subsurface Assessment by Environmental Associates, Inc (Jan. 8, 2015);
   2) Wetland & Stream Determination by Acre Environmental Consulting LLC (Oct. 22, 2019);
   3) ALTA Survey prepared by True North (Dec. 3, 2021).
   4) Draft Geotechnical Report by Terra Associates, Inc. (Jan. 27, 2022);
   5) Draft Arborist Report prepared by Tree Solutions, Inc. (Feb. 25, 2022); and
   6) Transportation Impact Analysis by TENW (Jan. 9, 2023)

9. **Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

None are known.

10. **List any government approvals or permits that will be needed for your proposal, if known.**

City of Seattle Council land Use Action under file no. CF 314513;
City of Seattle Master Use Permit no. 3039050-LU for Design Review and combined SEPA review approval;
City of Seattle Construction Permit no. 6875558-CN; and
City of Seattle Early Design Guidance no. 3039547-EG
City of Seattle Urban Forestry Permit for new street tree;
City of Seattle Street Improvement Permit ("SIP") for proposed frontage improvements.

11. **Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)**

The Project would provide 190 affordable housing units in a seven-story mixed-use structure, together with on-site below-grade parking. The Project would also include residential amenity spaces, neighborhood open spaces, and ground-level commercial space that will be specifically configured for use by potential daycare tenants.

12. **Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

Assigned Assessor Parcel Numbers are 5725500819 and 5724500825, the abbreviated legal description is a portion of Lots 1 through 12, inclusive, Block 5, Munson & Custer's Addition to Green Lake Circle, Volume 5 of Plats, Page 88, records of King County, Washington. The complete property legal description and site plan is included in the associated Master Use Permit materials on file with SDCI.

B. Environmental Elements

1. Earth Find help answering earth questions

a. General description of the site (check one):

☒ **Flat** ☐ **Rolling** ☐ **Hilly** ☐ **Steep Slopes** ☐ **Mountainous**
☐ **Other:**

b. What is the steepest slope on the site (approximate percent slope)?

The steepest slope existing on the site is 20%, in a constructed landscaped area.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

The Draft Geotechnical Report by Terra Associates, Inc. found that in general, the soil conditions observed underlying approximately 2 to 4 inches of asphalt or 4-6 inches of grass/mulch consisted of approximately 3 to 7 feet of very loose to medium dense fill overlying dense to very dense silty sand, silty sand with gravel, and sand with silt and gravel to the termination of the test borings.

The fill material consisted of a silty sand with gravel with heavy organic inclusions.

The project is in an urban area, not in the vicinity of any agricultural land of long-term commercial significance. The project will not result in removal of soil necessary for use by agricultural land.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

No, there are no surface indications or history of unstable soils in the immediate vicinity of the site. No mapped steep slope or potential slide areas are on the site or in the immediate vicinity.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Approximately 18,847 cubic yards of earthwork will occur with the proposed development. This includes excavation for proposed buildings and utilities as well as backfill and general site grading. Earthwork operations will encompass the whole site area. Limited fill will be sourced from local quarries, primarily for landscaping purposes.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

Though erosion is possible during demolition, excavation and construction, applicable best management practices (BMPs) for erosion and sediment control will be implemented to mitigate erosion . The site will comply with applicable City of Seattle, NPDES and Construction Stormwater General Permit requirements. At project completion, the site will be permanently stabilized and no ongoing erosion would occur.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Approximately 95% of the site will be covered by impervious surfaces. Approximately 85% of the site is covered with impervious surfaces in the existing condition.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

Applicable BMPs will be implemented as needed to control erosion per the City of Seattle Stormwater Manual. BMPs may include, but are not limited to temporary construction entrances, stabilization of temporary slopes with hydroseed or plastic sheeting, temporary silt fence, inlet protection, and sedimentation tanks. Permanent stabilization will consist of paving and vegetation.

2. Air Find help answering air questions

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

During construction, there will be exhaust from construction equipment including graders, lifts, and other similar equipment.

De minimis "environmental air" exhaust from garage venting, mechanical room, laundry venting for shared laundry rooms, and unit fan venting will occur on an ongoing basis after Project completion.

Transformer room will be served by a standard exhaust air system for cooling purposes, per Seattle City Light Design Standards. No transformer vault emissions beyond standard exhaust fan ventilation.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known.

c. Proposed measures to reduce or control emissions or other impacts to air, if any.

There are no significant adverse air impacts that would occur as a result of the project, and no mitigation is required.

During design, appropriate acoustic details of the envelope will be used. Filters will be used at all building air intakes to limit impacts to indoor air quality.

During Project construction, dust suppression measures such as sprinkling water over excavation and grading areas will be undertaken as conditions require. Construction vehicles will also be well-maintained and idling will be limited in order to control exhaust emissions.

3. Water Find help answering water questions

a. Surface Water: Find help answering surface water questions

1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

City maps plot a portion of the Property (on the far easterly side of 1020 NE Northgate Way) a nearby off-property bioretention pond as "wetland," however, this is a man-made bioretention pond constructed with adjacent development to address stormwater systems. It is not a wetland that is subject to the City's ECA regulations, nor is it functionally connected with the Property or the proposed development.

The Property is also approximately 120 feet away from Victory Creek, which is a tributary of Thornton Creek. Surrounding Victory Creek is a 100-foot riparian corridor, and an associated wetland. The riparian corridor does not reach the Property.

No other water bodies are known to be present on or within 25 feet of the Property. Redevelopment of the Property will comply with all applicable ECA regulations.

2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Yes, the project will include work adjacent to the bioretention pond, and potentially within 200 feet of the riparian corridor associated with Victory Creek. However, the Wetland & Stream Determination by Acre Environmental Consulting LLC found that the Victory Creek watercourse itself is located further away, at approximately 250 feet.

Given the distance of approximately 250 feet between Victory Creek and the Property, no portion of this stream or its associated 100-foot riparian management area extend to within 150 feet of the subject site.

No impacts to the bioretention pond or to Victory Creek (including its riparian corridor and associated wetland) are anticipated, and no mitigation is required.

Available plans are attached in the MUP package on file with the City.

3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

No fill material would be placed into surface waters or wetlands, and no dredge material would be removed, as a result of the Project.

3. Water Find help answering water questions

a. Surface Water: Find help answering surface water questions

1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

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No fill material would be placed into surface waters or wetlands, and no dredge material would be removed, as a result of the Project.

4. **Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

   No, the project will not require surface water withdrawals or diversions.

5. **Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

   No part of the Project site lies within a 100-year floodplain, according to King County's iMap system.

6. **Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

   No waste materials will be intentionally discharged to ground or surface waters. Applicable best management practices will be implemented during Project construction to protect ground and surface waters throughout the Property.

b. Ground Water: Find help answering ground water questions

1. **Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**

   No groundwater will be withdrawn by the Project.

2. **Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

   No waste material will be intentionally discharged onto or into the ground or surface waters. Sewer and storm water will be directed to City of Seattle sanitary and storm sewers as appropriate.

c. Water Runoff (including stormwater):

1. **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

   Stormwater runoff will generally be collected in area drains and catch basins, then routed to on-site stormwater management and runoff treatment facilities to the extent feasible. A detention structure will control the total project discharge rate to the on-site storm main. The detention structure will be designed in accordance with the City of Seattle Stormwater Manual.

2. **Could waste materials enter ground or surface waters? If so, generally describe.**

   No waste material will be intentionally discharged onto or into the ground or surface waters. Sewer and storm water will be directed to city sanitary and storm sewers as appropriate.

3. **Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

   Drainage patterns will not be affected in the vicinity of the project site. The project's stormwater system will be designed to maintain existing drainage basin flows per City of Seattle Stormwater Manual requirements.

4. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any.

There are no significant adverse water impacts as a result of the Project, and no mitigation is required.

During construction, storm water and erosion will be controlled as part of the Stormwater Pollution Prevention Plan (SWPPP). As required by Department of Ecology, storm water sediment levels will be monitored during construction and if necessary, storm water will be collected and settled in an appropriate best management practice (BMP). Sediment monitoring and discharge reporting will comply with applicable Department of Ecology requirements. Permanent drainage control will include BMPs to meet applicable minimum requirements per the City of Seattle Stormwater Manual.

4. Plants Find help answering plants questions

a. Check the types of vegetation found on the site:

- ☒ **deciduous tree: alder, maple, aspen, other**
- ☐ **evergreen tree: fir, cedar, pine, other**
- ☒ **shrubs**
- ☒ **grass**
- ☐ **pasture**
- ☐ **crop or grain**
- ☐ **orchards, vineyards, or other permanent crops.**
- ☐ **wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other**
- ☐ **water plants: water lily, eelgrass, milfoil, other**
- ☐ **other types of vegetation**

The applicant submitted an arborist report by Tree Solutions Inc, Consulting Arborists, February 25, 2022, all trees measuring six inches in diameter or + assessed. A 6 trees growing on site, none of which have been identified as qualifying as exceptional due to their size according to Director's Rule 16-2008

b. What kind and amount of vegetation will be removed or altered?

The site will be cleared of shrubs, mulch and lawn grass, and thirteen deciduous trees that are not classified as exceptional by the City of Seattle. Seven street trees will be retained, and one will be removed as further described in the arborist's report.

c. List threatened and endangered species known to be on or near the site.

None are known.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

The site will be planted with a variety of native and adaptive shrubs, trees, and perennials with an emphasis on biodiversity, habitat value, and beaut. A new street tree will be provided, as will various new vegetated bioplanters and a planted courtyard area. Please see MUP plan set at sheet DR-1 on file with the City for further information.

e. List all noxious weeds and invasive species known to be on or near the site.

None are known. Urban adapted species of weeds, grasses, birds and small mammals are likely to occur on or near or near the site.

5. Animals Find help answering animal questions

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site. Examples include:

- **Birds: hawk, heron, eagle, songbirds, other:**
- **Mammals: deer, bear, elk, beaver, other:**
- **Fish: bass, salmon, trout, herring, shellfish, other:**

None are known. Urban adapted species of weeds, grasses, birds and small mammals are likely to occur on or near or near the site.

b. List any threatened and endangered species known to be on or near the site.

None are known.

c. Is the site part of a migration route? If so, explain.

The project site is located within the Pacific Flyway, which is a major north-south route of travel for migratory birds extending from Alaska to Patagonia. Every year, migratory birds travel some or all this distance both in spring and in fall, following food sources, heading to breeding grounds, or traveling to overwintering sites. With the exception of the Pacific Flyway, the project area is otherwise not a known or mapped wildlife species corridor.

d. Proposed measures to preserve or enhance wildlife, if any.

There are no significant adverse plant or animal impacts, and no mitigation is required.

The addition of planting will provide resources and habitat for pollinators and other wildlife, including through vegetated green roof areas, a 264 sq. ft. non-infiltrating bioretention planter, and improved street-front landscaping. Please see MUP plan set at sheet DR-1 on file with the City for further information.

e. List any invasive animal species known to be on or near the site.

No invasive animal species are known to be on or near the site.

6. Energy and Natural Resources Find help answering energy and natural resource questions

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

The project's energy needs would be fueled by electricity and natural gas from the local grid.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

The applicant has considered potential shadow impacts on neighboring parcels that may be caused by the Project and associated street trees. Shadow studies provided during the Design Review process indicate that shadowing will primarily affect the windowless side façade of the QFC grocery store located adjacent to the north of the Property as well as the QFC's expansive surface parking lot, with some lesser effects on the vacant lot and the TJ Maxx that fall west and northwest of the Property across Roosevelt Way NE. In addition, the Project and associated street trees would cast some shadows on a portion Victory Creek Park during afternoons in the wintertime. Some shadows will also be cast on the Roosevelt Way NE right-of-way during winter morning hours. No shadows would be cast on nearby residential lowrise (LR-2 (M)) properties located due south of the Project.

Applicant's shade and shadow shows that a small portion of Victory Park will be affected by shadows generated by the proposed development in the late afternoon during winter hours.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.

There are no significant adverse energy impacts, and no mitigation is required.

The Project will comply with the City of Seattle Energy Code.

Energy efficient measures include: LED lighting, Energy Star appliances, energy efficient windows, Energy Recovery Ventilation, efficient CO2 heat pump domestic hot water system, and heat pumps for space conditioning.

7. Environmental Health Find help with answering environmental health questions

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.

No.

Applicant submitted Phase II Environmental Assessment; (Environmental Associates, Inc., January 8, 2015) to evaluate contamination from gasoline service station and oil changing operations trace level environmental inpacts to both the soil and groundwater that do not exceed (WDOE) target compliance levels

1. Describe any known or possible contamination at the site from present or past uses.

None are known.

a. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

None are known.

b. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

None are known, except for minor chemicals that are common and customary for use in ordinary construction. No toxic or hazardous chemicals would be used in the operating life of the residential project.

c. **Describe special emergency services that might be required.**

None.

d. Proposed measures to reduce or control environmental health hazards, if any.

There are no significant adverse environmental health impacts, and no mitigation is required.

During construction, any contaminated soils discovered will be segregated and disposed of in accordance with appropriate regulatory guidelines and to an appropriate qualified landfill facility certified to accept contaminated soil.

Due to the age of the existing structures, some building materials on the site may contain asbestos and/or lead. During demolition of existing structures, analysis, control and disposal of hazardous materials will be conducted in compliance with all applicable Federal, State and local regulations.

Demolition of the existing structures will comply with WAC 296-155-775 and include additional measures to control dust and other disturbance to adjacent properties.

b. Noise

1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Traffic noise from adjacent arterials can be heard on the Property. The traffic noise is not expected to adversely affect the Project.

2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?

Short Term: construction noise will occur during working hours allowed by the City's Noise Control Ordinance.

Long Term: Ordinary noises of residential and commercial use (including traffic noise and residential mechanical system noise) will be intermittent, at levels customary and common for mixed-use, multifamily buildings with retail businesses and small children living on site.

3. **Proposed measures to reduce or control noise impacts, if any.**

There are no significant adverse noise impacts, and no mitigation is required.

The project will comply with the City of Seattle Noise Ordinance Code, including regulations for hours of construction and types of construction activity.

8. Land and Shoreline Use Find help answering land and shoreline use questions

a. **What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

The Property is in use for restaurant and automobile-oriented businesses, with wood-frame structures and expansive associated parking areas. The proposed Project will not affect any nearby or adjacent land uses.

Almost all surrounding areas are occupied by non-sensitive commercial uses, such as a TJ Maxx; a QFC grocery store and associated surface parking areas to the north; a Walgreens pharmacy and a vacant lot to the west; and an ARCO gas station to the south.

Some LR2(M)-zoned multifamily properties are located to the South, but the NE Northgate Way arterial right-of way provides a 73-foot to 76-foot-wide area of transition between the Property and these low-rise multifamily properties. Furthermore, these properties are already trending toward denser development patterns that complement the Project's affordable housing proposal. One of the four original duplex-sized parcels has already been converted into a townhouse plat for eight units (see 10839-10849 11th Ave NE; 1035-1037 NE Northgate Way; 3032196-LU), and another appears to be occupied by a daycare center use (1019 NE Northgate Way). The remaining two duplex lots are under common ownership with property sales in January 2021, indicating they may be development sites in the near future.

b. **Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

No, the Property has not been used as working farmland or forest land within living memory.

1. **Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?**

   No working farm or forest land surrounds the Property.

c. **Describe any structures on the site.**

The Property contains two single-story commercial structures with extensive impermeable surface parking areas oriented toward single-passenger vehicles. One of the structures was most recently occupied by a "Patty's Eggnest" restaurant/lounge use and the other was most recently occupied by a "Jiffy Lube" mini-auto-garage use.

The Project proposes to replace the outdated structures and surface parking areas with street-oriented commercial uses and modern, high-quality affordable housing stock, embellished by modern architectural treatments, frontage improvements, and plantings.

d. **Will any structures be demolished? If so, what?**

Yes, all existing structures on the Property will be demolished.

e. What is the current zoning classification of the site?

The current zoning classification of the site is Neighborhood Commercial 3, with a 55-foot height limit and a mandatory housing affordability designation, or "NC3-55 (M)".

The site is located within both the Northgate Urban Center and the Northgate Overlay District described in SMC Ch 23.71. It is currently classified as a "Medium Area" for purposes of Seattle's mandatory housing affordability (MHA) program fee amounts, and is subject to the Northgate neighborhood design guidelines. It has also been classified as within a Design Review Equity Area.

A rezone to NC3-65 (M1) is proposed as part of the Project, which would increase the applicable height limit by 10 feet to 65 feet and modify associated development standards, but would not otherwise change underlying zoning.

f. What is the current comprehensive plan designation of the site?

The Property is part of the designated Northgate Urban Center on Seattle's "Future Land Use 2035" Comprehensive Plan map.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

No part of the Property has been classified as a critical area.

The bioretention pond area that is adjacent to the subject site has been mapped as wetlands by SDCI's GIS map. However, this pond was intentionally created from non-wetland sites as a detention facility, and therefore, does not meet the requirements for jurisdictional wetlands as defined in SMC 25.09.012.

Applicant provided Wetland Report & Stream Determination Report (Acre Environmental Consulting, LLC. October 22, 2019) area adjacent to site and wetland adjacent to Victory Creek determined not to meet requirements for jurisdictional wetlands.

i. Approximately how many people would reside or work in the completed project?

The Project will contain approximately 184-190 residential dwelling units and 8,200 gross square feet of floor area in commercial use.

Approximately 250 adults and children could reside in the completed affordable housing units, and approximately 5-10 adults are anticipated to work in the commercial space.

j. Approximately how many people would the completed project displace?

No residential units exist on the Property, so no people would be displaced by the Project.

k. Proposed measures to avoid or reduce displacement impacts, if any.

There are no displacement impacts, and no mitigation is required.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.

There are no significant adverse land use impacts, and no mitigation is required.

The Project will follow all applicable zoning, land use and design guidelines, standards and procedures, and will be consistent with applicable provisions of the Comprehensive Plan. It has completed the City of Seattle's early design guidance ("EDG") process. As an eligible affordable housing development, the Project expects to use the entitlement process specified in SMC 23.41.004.E.

The Project involves a rezone for height, but permitted commercial and residential uses remain the same under the existing and proposed zoning designation.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any.

Not applicable.

9. Housing Find help answering housing questions

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

The Project will provide approximately184-190 housing units, all of which would be affordable to residents earning between 50%-80% and below of the Area Median Income ("AMI").

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

No housing units would be eliminated by the Project.

c. Proposed measures to reduce or control housing impacts, if any.

All housing impacts would be positive, so no mitigation is required.

100% of the units will be priced to be affordable to individuals making 50% to 80% of area median income ("AMI").

Overall, the proposed development is adding approximately 184-190 low income units to the site, adding to Seattle's overall inventory of affordable housing.

10. Aesthetics Find help answering aesthetics questions

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

The proposed maximum height, excluding antennae and other mechanical equipment and appurtenances allowed to exceed this limit per the SMC, is 65 feet.

The principle exterior material is proposed to be fiber cement paneling.

Proposal has gone through the Design Review process in which aesthetics and exterior of building was reviewed and approved.

b. What views in the immediate vicinity would be altered or obstructed?

Territorial views in the immediate vicinity would be altered. Few, if any, uses in the area are view-sensitive. With respect to the several residential uses across NE Northgate Way, the Project will displace their territorial view of the QFC grocery store's blank façade, the two businesses to be removed, and an expansive parking area, as shown in the Project's rezone application.

The City's SEPA Ordinance designates certain public places for which view protection is City policy. The Project would not adversely affect views from the listed public places under current or proposed height limits. The SEPA Ordinance also designates certain scenic routes identified as protected view rights-of-way. No adjacent streets have been identified as protected scenic routes.

c. Proposed measures to reduce or control aesthetic impacts, if any.

There are no significant adverse aesthetic impacts, and no mitigation is required.

In addition to the planting and landscaping features discussed above, other aesthetic features of the Project will include a facade modulated in space, color and transparency, as well as a design that embraces corners and creates neighborhood open space, transparent storefronts and a pedestrian connection on the east side of the site.

11. Light and Glare Find help answering light and glare questions

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

There are no anticipated light or glare-related impacts during the day. After sunset, there will be some evening light spillage from the residential unit windows typical of urban residential and commercial buildings. The Project will also provide exterior building light for pedestrian security and wayfinding that does not exist today. All exterior lighting will be directed downward and away from adjacent streets and uses.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No light- or glare-related safety hazards are expected.

c. What existing off-site sources of light or glare may affect your proposal?

The Project will neither create nor experience significant adverse light and glare impacts, and no mitigation is required.

Existing street lights on NE Northgate Way and Roosevelt Way NE are located south and east of the site. The QFC grocery store, its signage and its parking lot, provide other sources of light, as do other neighborhood businesses. These sources will be visible from, but not directly affect, the Project.

Exterior lighting fixtures will be shielded from leaving the property and directed downward per the Seattle Land Use Code.

d. Proposed measures to reduce or control light and glare impacts, if any.

The Project will neither create nor experience significant adverse light and glare impacts, and no mitigation is required.

Existing street lights on NE Northgate Way and Roosevelt Way NE are located south and east of the site. The QFC grocery store, its signage and its parking lot, provide other sources of light, as do other neighborhood businesses. These sources will be visible from, but not directly affect, the Project.

Exterior lighting fixtures will be shielded from leaving the property and directed downward per the Seattle Land Use Code.

12. Recreation Find help answering recreation questions

a. What designated and informal recreational opportunities are in the immediate vicinity?

The Project is located in immediate proximity to Victory Creek Park, and within walking distance of Hubbard Homestead Park, Victory Creek Confluence Natural Area, Beaver Pond Natural Area, and Northgate Park (to include Northgate Community Center and Northgate Branch of the Seattle Public Library). Other amenities include Kingfisher Natural Area on Thornton Creek, and Victory Heights Playground. Area sports fields and playground equipment are located at Nathan Hale High School, Meadowbrook Playfield and Northgate Elementary.

b. Would the proposed project displace any existing recreational uses? If so, describe.

No existing residential uses would be displaced.

c. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.**

There are no significant adverse recreation impacts, and no mitigation is required.

To provide recreation opportunities for residents and neighbors, the Project will provide an indoor fitness center, a public plaza, an enclosed rooftop play area, and rooftop fire pit and barbecue areas.

13. Historic and Cultural Preservation Find help answering historic and cultural preservation questions

a. **Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

Two structures are located on the site and neither is listed in or believed to be eligible for listing in national, state, or local preservation registers. According to King County Parcel data, one structure is a wood-frame building constructed in 1988 for (and presently maintained as) a auto garage, and the other wood frame structure constructed in 1970 for (and currently maintained as) a restaurant/lounge use.

Neither parcel or property address is noted in the Seattle Department of Neighborhoods "Seattle Historical Sites" database. No nearby structures are listed or believed to be eligible for preservation.

Existing structures were reviewed for potential to meet historic landmark status. DON reviewed and determined that the structure would unlikely qualify for historic landmark status (Landmarks Preservation Board letters, reference number LPB 13023, April 11, 2023).

b. **Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

None are known.

c. **Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

The applicant has researched GIS maps, surveys, and historic maps including the Washington Department of Archaeology and Historic Preservation WISAARD database, and the Seattle Department of Neighborhoods "Seattle Historical Sites" database.

d. **Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

There are no significant adverse cultural resources impacts, and no mitigation is required. No cultural resources were identified on, or near, the Project site.

14. Transportation Find help with answering transportation questions

a. **Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

The Property is located at the northeast corner of the intersection between NE Northgate Way and Roosevelt Way NE. Vehicle access for the site would occur using an existing 24-foot wide shared vehicle access easement that runs along the northerly edge of the proposed structure. This existing easement connects to the QFC grocery store's parking lot at its easterly terminus and Roosevelt Way NE at its westerly terminus. This easement provides direct access between the street network and the Project's proposed garage entryway and trash staging areas. The Project would widen this easement's existing curb cut on Roosevelt Way NE. NE Northgate Way and Roosevelt Way NE are both principal arterials.

Primary arterial access to Interstate 5 (I-5), SR 99 and SR 522 is from NE Northgate Way, which is adjacent to the site. SR 522 also known as Lake City Way, or as Bothell Way NE north of NE 145th Street. SR 99 is also known as Aurora Avenue N. 30th Avenue NE is a collector arterial that connects 145th Street to NE 125th Street and Lake City Way.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

The Property is very well served by transit service, and the Project is not anticipated to exceed capacity. In addition to the nearby Northgate Station's link light rail, bus rapid transit and local bus service, the Property is directly and thoroughly served by several King County Metro bus lines. Most notably, the 67 line and the 20 line are "frequent all-day routes" that provide service every fifteen minutes or less from Monday through Friday, 6 am to 7 pm, as well as every 30 minutes or less on weekends from 6 am to 10 pm. The 67 line connects the Property with Roosevelt and University District neighborhoods as well as Children's Hospital, while the 20 line connects the Property with Lake City, Green Lake, and University District neighborhoods. Other Metro lines serving the site include the 347, 348 and 984 lines.

c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

No significant adverse impacts are anticipated, and no mitigation is required.

The project would make frontage improvements along NE Northgate Way and Roosevelt Way NE, and provide and improve both a public plaza as neighborhood open space and a proposed pedestrian connection between NE Northgate Way and the QFC property the north.

d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

The Project would not use or occur near water, rail, or air transportation.

e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

As further described in the Traffic Impact Analysis, the Project is anticipated to generate 400 net new weekday daily trips, with 23 net new weekday AM peak hour trips (-12 entering, 35 exiting), and 35 net new weekday PM peak hour trips (30 entering, 5 exiting).

Overall, it is estimated the project may receive between 6 to 9 delivery trips per day (made up of a combination of Amazon, FedEx, UPS, and USPS). Waste/recycling trucks are anticipated on a weekly basis. The overall apartment development is estimated to have 2 move-in and 2 move-outs per week. Conservatively assuming that 50 percent of the moves would use a U-Haul type moving van/truck, this would result in a moving truck trip generation of potentially 2 truck trips per week.

Numerous standard datasets and models were used to make these estimates. Please see the Project's Traffic Impact Analysis for further information.

f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

The project would not interfere with or be affected by the movement of agricultural and forest products on the roadway network.

g. Proposed measures to reduce or control transportation impacts, if any.

There are no significant adverse transportation impacts, and no mitigation is required.

15. Public Services Find help answering public service questions

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

The Project is in an urban area where growth is expected and service capacities are considered sufficient. The Project is not anticipated to result in an increased need for public services beyond existing service capacities.

b. Proposed measures to reduce or control direct impacts on public services, if any.

No significant adverse public service impacts are anticipated, and no mitigation is required.

The Project will include a secure and well illuminated site to ensure residential user safety. Ground level transparency will increase eyes on the street and on private property at the ground level. Fire sprinklers will be installed to reduce the need for fire department services. Proximity to city transportation will reduce the impact of vehicular traffic on neighborhood streets.

Any increase in demand on public services is consistent with the anticipated growth in the City of Seattle.

16. Utilities Find help answering utilities questions

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:

Electricity, natural gas, water, refuse service, telephone and sanitary sewer are all currently available at the site.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

The Project will utilize electricity, water, sanitary sewer services, refuse & recycling collection, telephone, and cable services.

Electricity: Seattle City Light
Natural gas: Puget Sound Energy
Water: Seattle Public Utilities
Sanitary Sewer: Seattle Public Utilities
Refuse & Recycling Service: Seattle Public Utilities
Telecommunications: Lumen, Comcast, and/or other area service providers will be made available to tenants.

C. Signature Find help about who should sign

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Alex Hutchinson

Name of Signee: Alex Hutchinson

Position and Agency/Organization: Project Manager, GMD Development LLC

Date Submitted: 2/21/23

This checklist was reviewed by:

David Landry, AICP

Land Use Planner, Seattle Department of Constructions and Inspections

D. Supplemental sheet for nonproject actions Find help for the nonproject actions worksheet

IT IS NOT REQUIRED to use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. **How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

   Non-applicable for this project action.

   - **Proposed measures to avoid or reduce such increases are:**

     Non-applicable for this project action.

2. **How would the proposal be likely to affect plants, animals, fish, or marine life?**

Non-applicable for this project action.

- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

  Non-applicable for this project action.

3. **How would the proposal be likely to deplete energy or natural resources?**

Non-applicable for this project action.

- **Proposed measures to protect or conserve energy and natural resources are:**

  Non-applicable for this project action.

4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

   Non-applicable for this project action.

- **Proposed measures to protect such resources or to avoid or reduce impacts are:**

  Non-applicable for this project action.

5. **How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

Non-applicable for this project action.

- **Proposed measures to avoid or reduce shoreline and land use impacts are:**

Non-applicable for this project action.

6. **How would the proposal be likely to increase demands on transportation or public services and utilities?**

Non-applicable for this project action.

- **Proposed measures to reduce or respond to such demand(s) are:**

  Non-applicable for this project action.

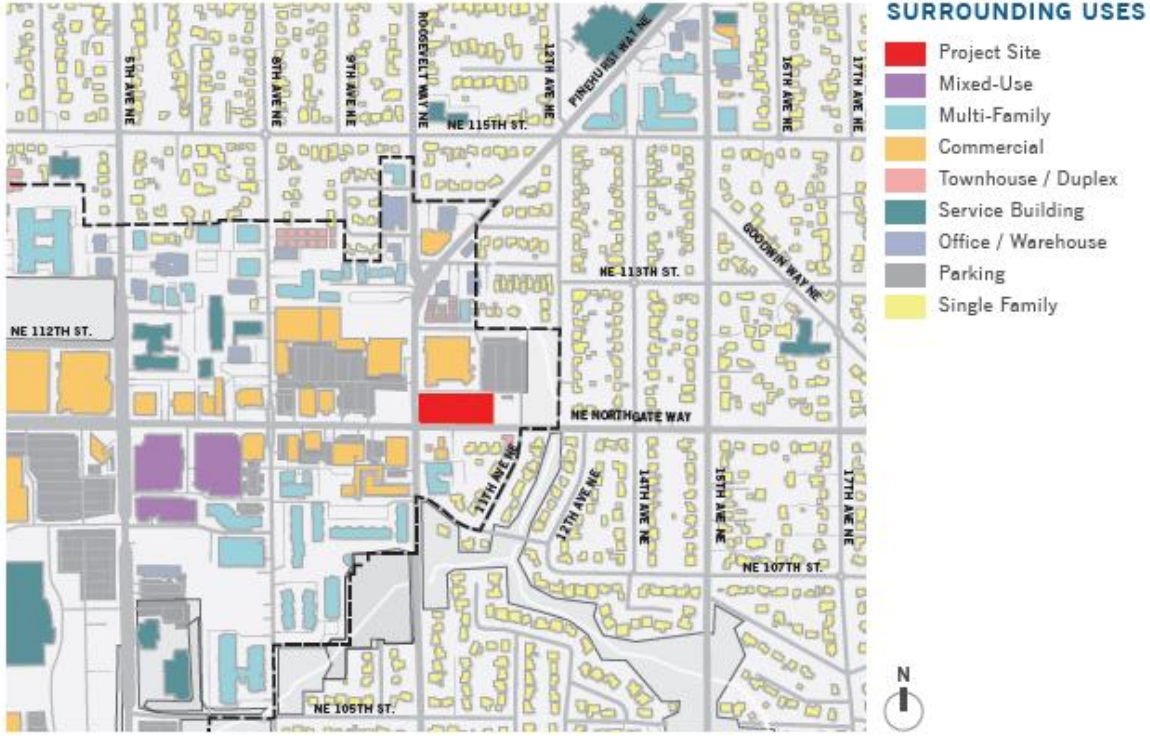
7. **Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

Non-applicable for this project action.

Victory Northgate Rezone Hearing

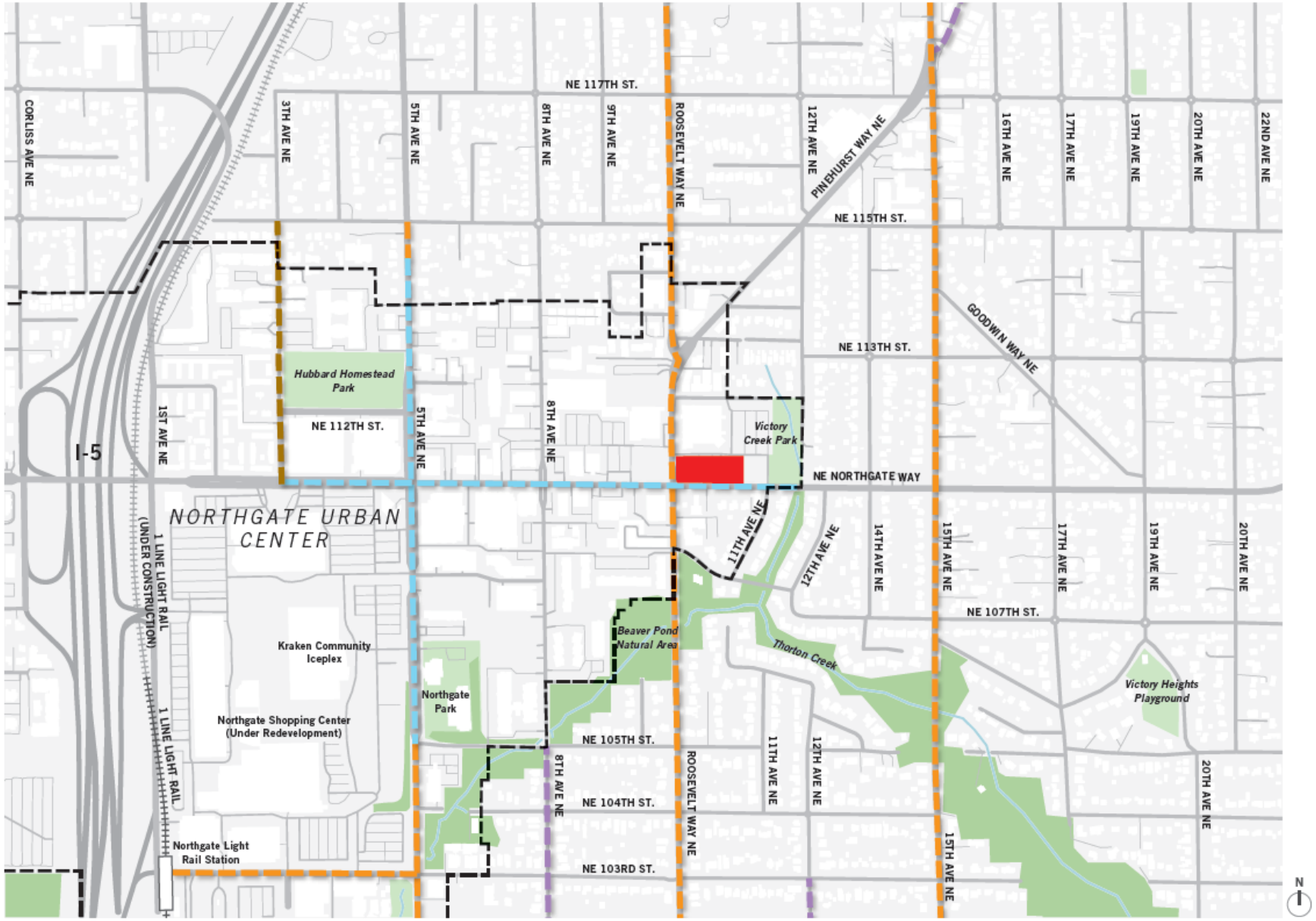
Seattle Hearing Examiner, August 14, 2023
1020 NE Northgate Way, Seattle WA 98125
MUP 3039050-LU / CF 314513

Site Context



MAP (GOOGLE EARTH)

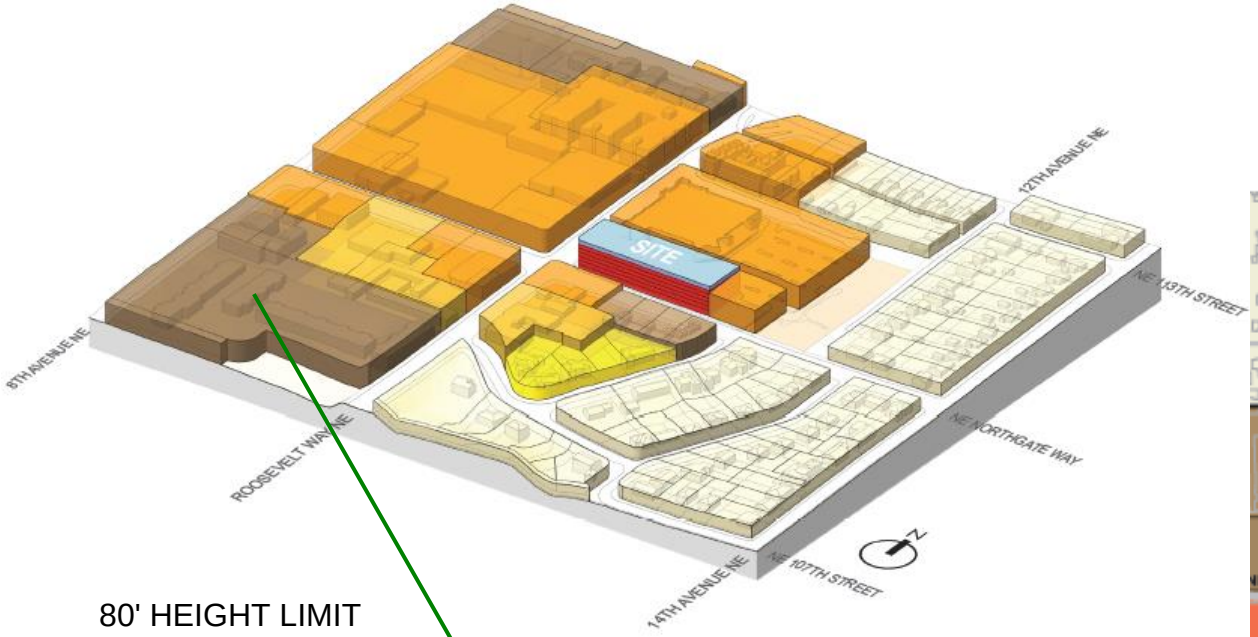
Site Context



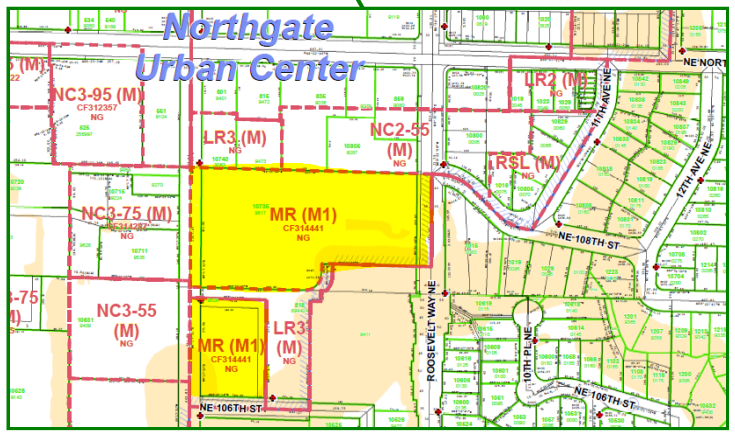
KEY

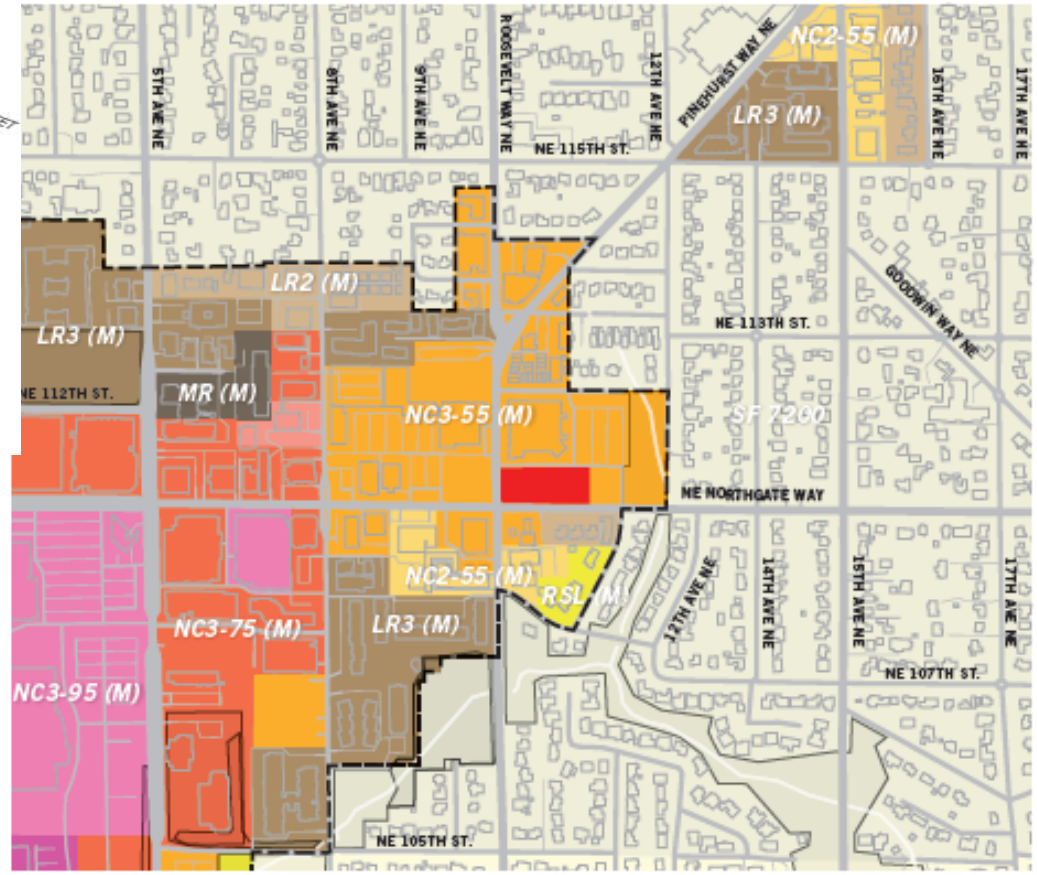
- Project Site
- Northgate Overlay
- Northgate Urban Center Boundary
- Parks
- Nature Areas
- Water
- Major Pedestrian Street
- Special Landscaped Arterial
- Green Street Type II
- Green Street Type III

Site Context – Zoning



80' HEIGHT LIMIT





ZONING

- Project Site
- NC3-145 (M)
- NC3-95 (M)
- NC3-75 (M)
- NC2-75 (M)
- NC3-55 (M)
- NC2-55 (M)
- MR (M)
- LR3 (M)
- LR2 (M)
- RSL (M)
- SF 7200

Site Context

SITE ANALYSIS SUMMARY

The following diagrams show a breakdown of the site context through various lenses, which help to inform the project on how to best arrange its program. A wide mix of building types can be seen in the vicinity, from single family housing to auto-oriented commercial properties, to low-rise and mid-rise multifamily housing. Generally, more commercial development is present to the west of the site and more residential is present to the east, putting the project in the unique position to address this zoning transition through thoughtful design.

NOTABLE BUILDINGS & PLACES

1. **QFC GROCERY STORE**
   11100 ROOSEVELT WAY NE
2. **VICTORY CREEK PARK**
   11100 ROOSEVELT WAY NE
3. **11202 ROOSEVELT WAY NE**
   SDCI #3019728
4. **11201 ROOSEVELT WAY NE**
   SDCI #3034991-LU
5. **T.J. MAXX DEPARTMENT STORE**
   11029 ROOSEVELT WAY NE
6. **WALGREENS**
   859 NE NORTHGATE WAY
7. **ARCO GAS STATION**
   10822 ROOSEVELT WAY NE
8. **PARK AT NORTHGATE APARTMENTS**
   10735 ROOSEVELT WAY NE

KEY
- Projects Under Design Development
- Projects Recently Completed

1 QFC GROCERY STORE

2 VICTORY CREEK PARK

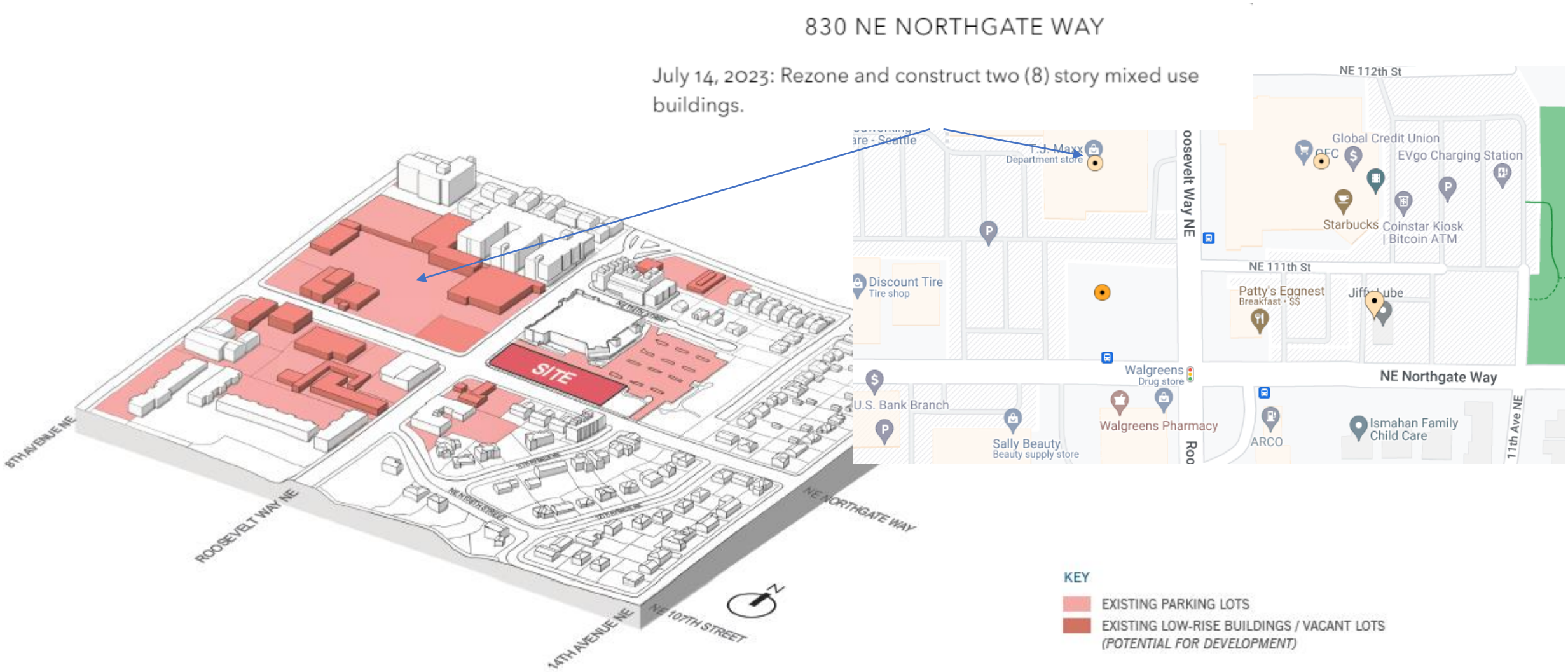
3 11202 ROOSEVELT WAY NE

4 11201 ROOSEVELT WAY NE

6 WALGREENS

8 PARK AT NORTHGATE APARTMENTS

Site Context – Adjacent Redevelopment Potential



Site Context – Existing Conditions

SITE CONDITIONS

The corner of NE Northgate Way and Roosevelt Way NE presents itself as the site's primary entrance and will be the most visible and trafficked corner. An existing restaurant occupies the corner but doesn't adequately address the street-frontage, only being accessed from the adjacent interior parking lot. The same is true for the site's other existing building, an automotive repair center. Two curb cuts along NE Northgate Way are present to access these buildings, but will be removed with the new development. This will make the curb cut access from Roosevelt Way NE the site's primary vehicular access point and the shared easement the site's de facto alleyway.

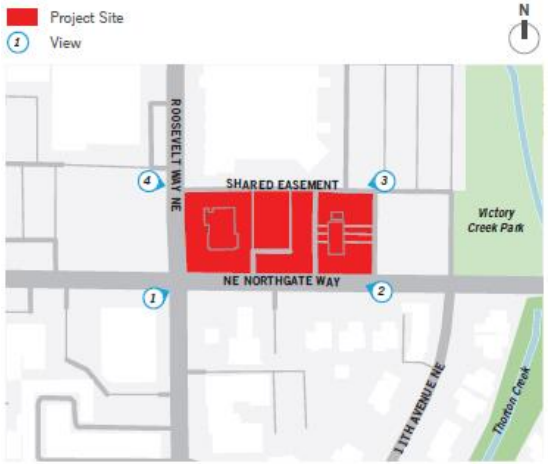
1 VIEW LOOKING EAST FROM CORNER OF NE NORTHGATE WAY

2 VIEW LOOKING WEST ACROSS NE NORTHGATE WAY

KEY

Project Site

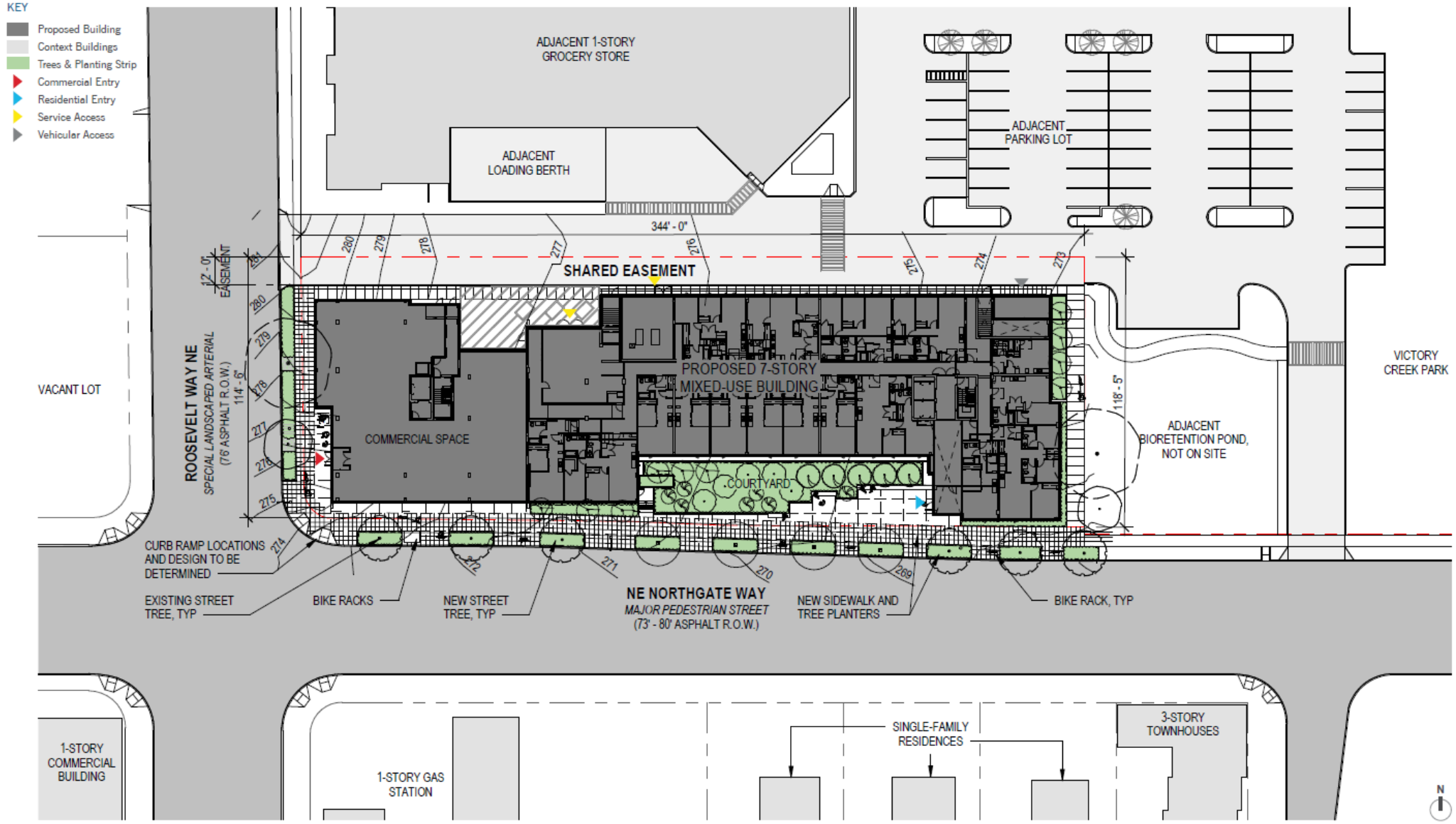
1 View



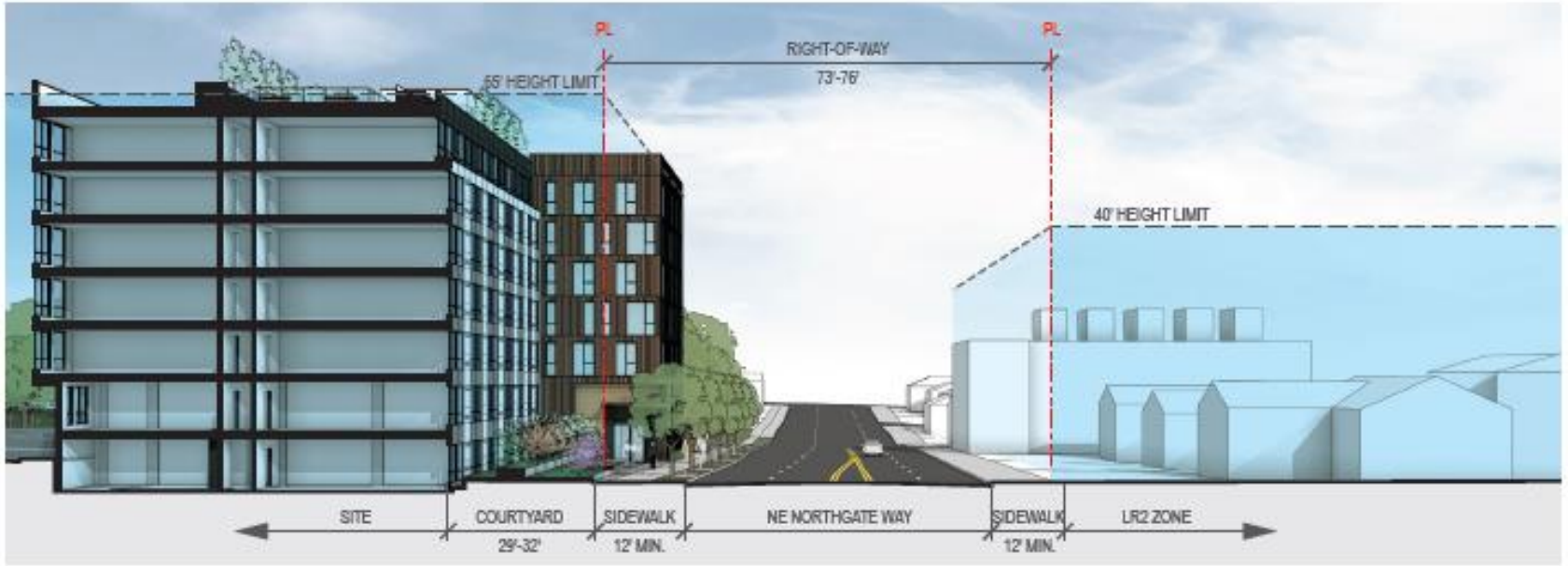
3 VIEW LOOKING WEST FROM SHARED EASEMENT

4 VIEW LOOKING EAST ACROSS ROOSEVELT WAY NE

Project – Site Plan



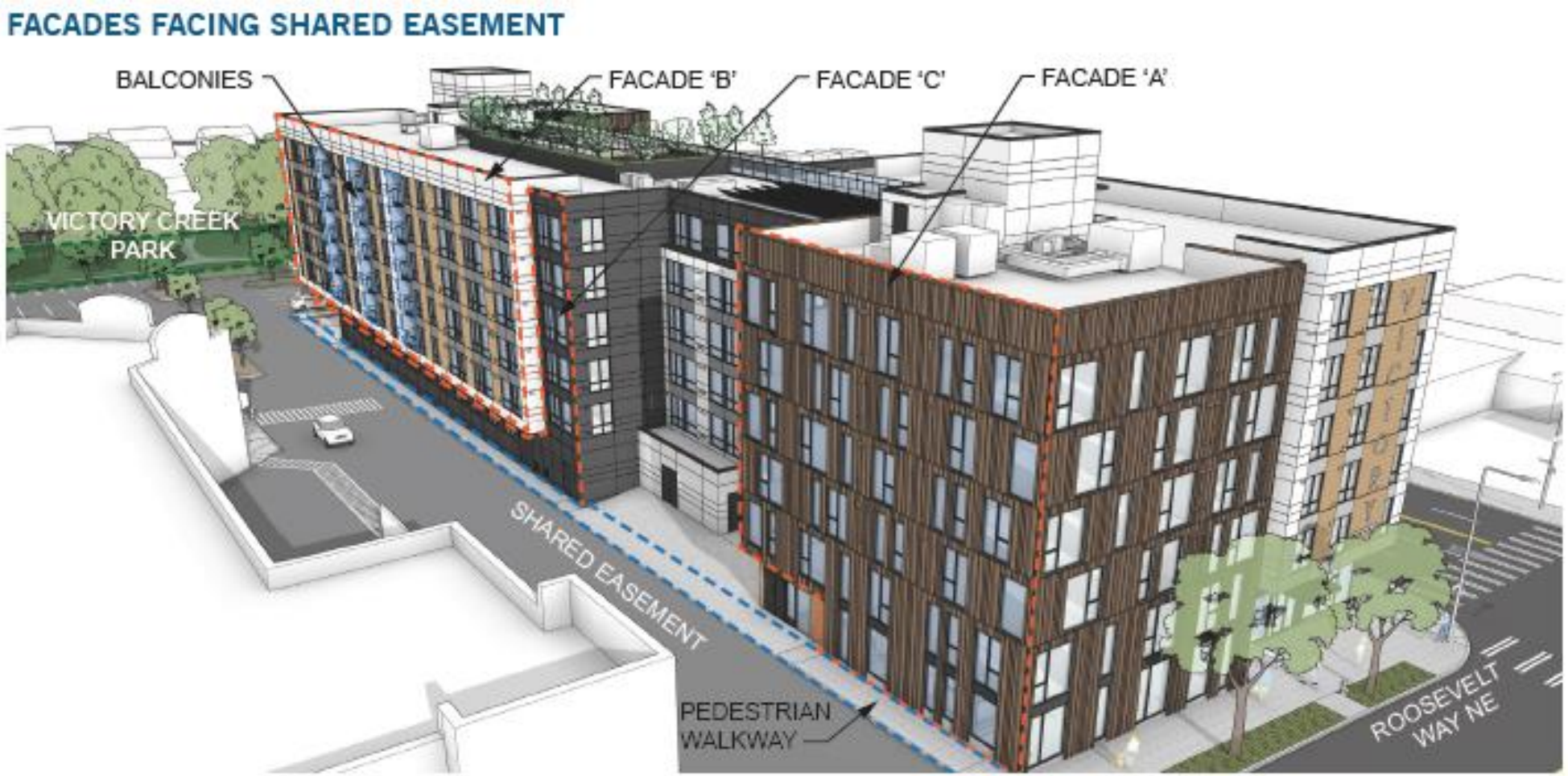
Project – Adjacencies and Transitions



A wider sidewalk and large courtyard are proposed across the adjacent low rise zone to help aid in the zoning transition. The height limit of the zones are also shown, illustrating each's developable potential.

The aerial view shown illustrates the proposed courtyard location with regards to the adjacent LR2 zone.

Project – Adjacencies and Transitions



Project – Adjacencies and Transitions

FACADES FACING VICTORY CREEK PARK

Project – Renderings

AERIAL VIEW FROM SOUTHWEST

Project – Renderings

VIEW FROM SOUTHWEST

Project – Renderings

VIEW FROM SOUTHEAST

Project – Renderings

VIEW FROM NORTHWEST

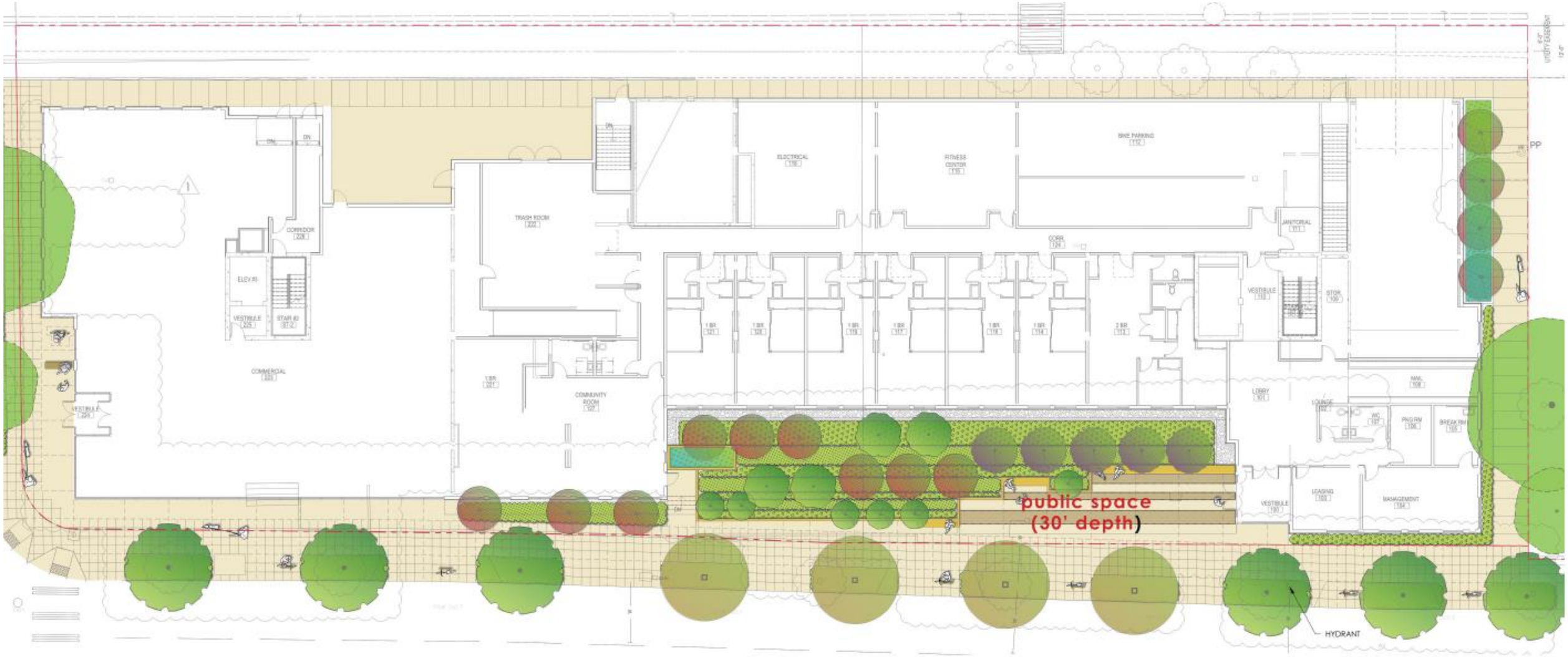
Project – Renderings

VIEW OF COURTYARD AND BUILDING ENTRY

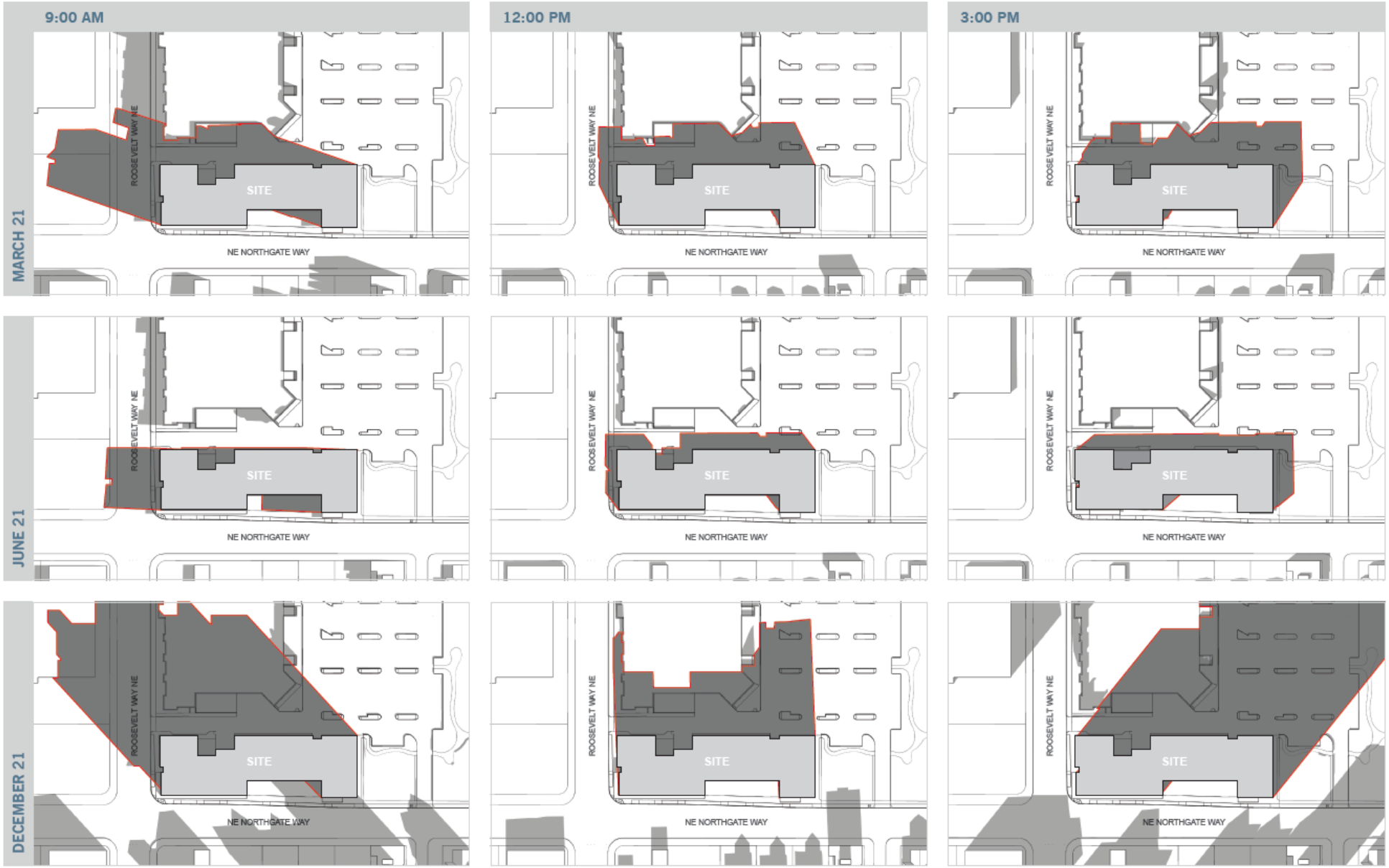
Project – Renderings

VIEW OF PEDESTRIAN CONNECTION

Project – Landscape Plan



Project – Shadow Studies



SEATTLE CITY COUNCIL
CENTRAL STAFF

Clerk File 314513
1000/1020 NE Northgate Way Rezone

LISH WHITSON, LEGISLATIVE ANALYST

LAND USE COMMITTEE
OCTOBER 20, 2023

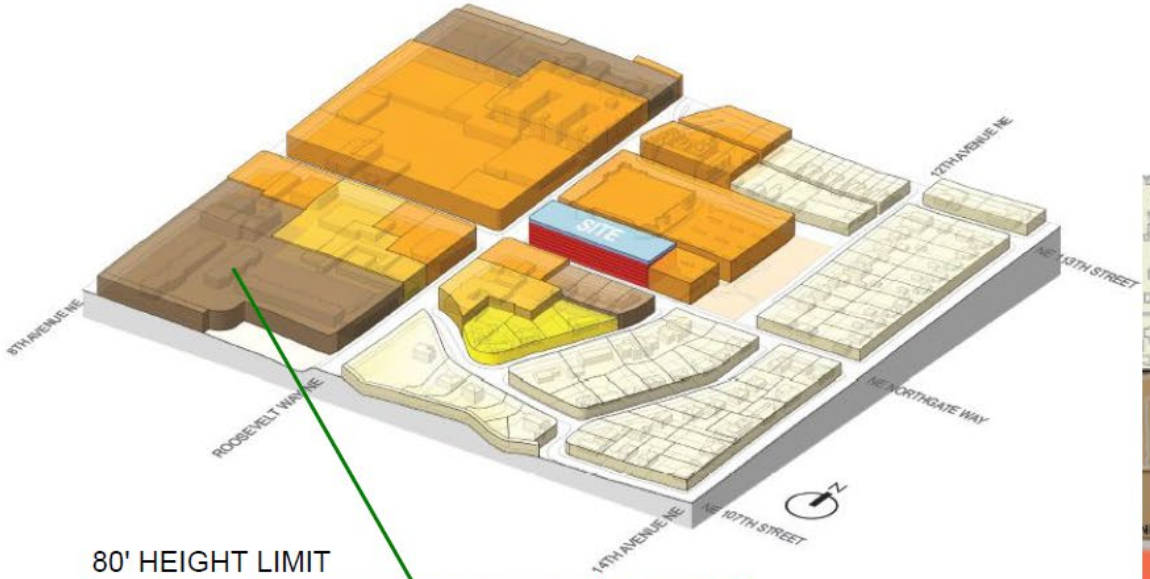
Type of Action

- Type IV land use action = Quasi-judicial decision
- Quasi-judicial rezones are subject to the “Appearance of Fairness” doctrine prohibiting ex-parte communication
- Council decisions must be made on the record established by the Hearing Examiner

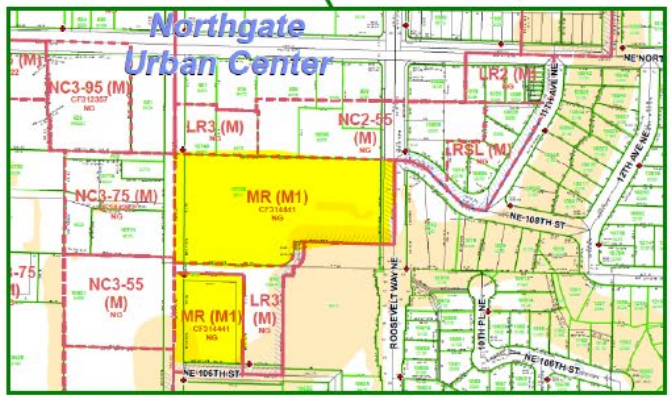
Application Summary

- Proposed rezone of two parcels at the northeast corner of NE Northgate Way and Roosevelt Way NE from Neighborhood Commercial 3-55 (M) (NC3-55 (M)) to Neighborhood Commercial 3-65 (M1) (NC3-65 (M1))
- Parcels are approximately 40,000 square feet total
- Rezone would facilitate the development of a 184-unit affordable housing development with ground floor retail and parking

Site Context – Zoning



80' HEIGHT LIMIT



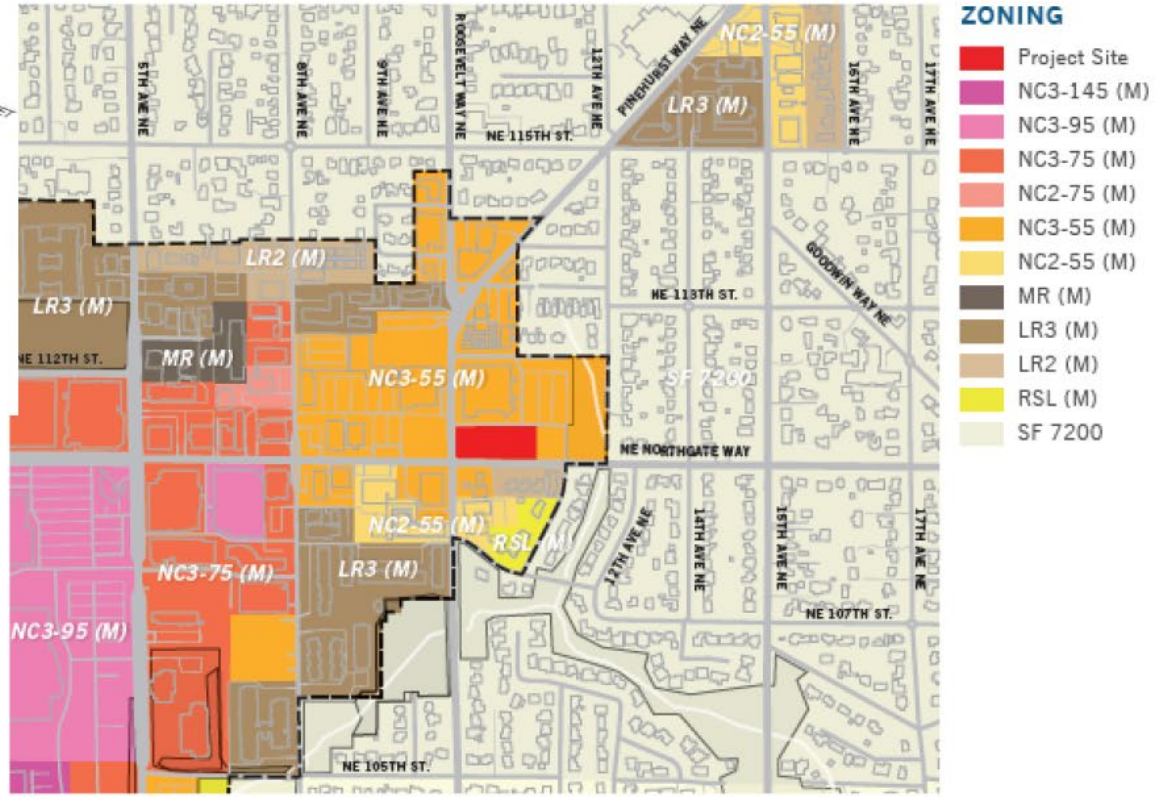


Image from Applicant's Exhibit 1

Project – Renderings

VIEW FROM SOUTHWEST

Image from Applicant's Exhibit 1

Project – Site Plan

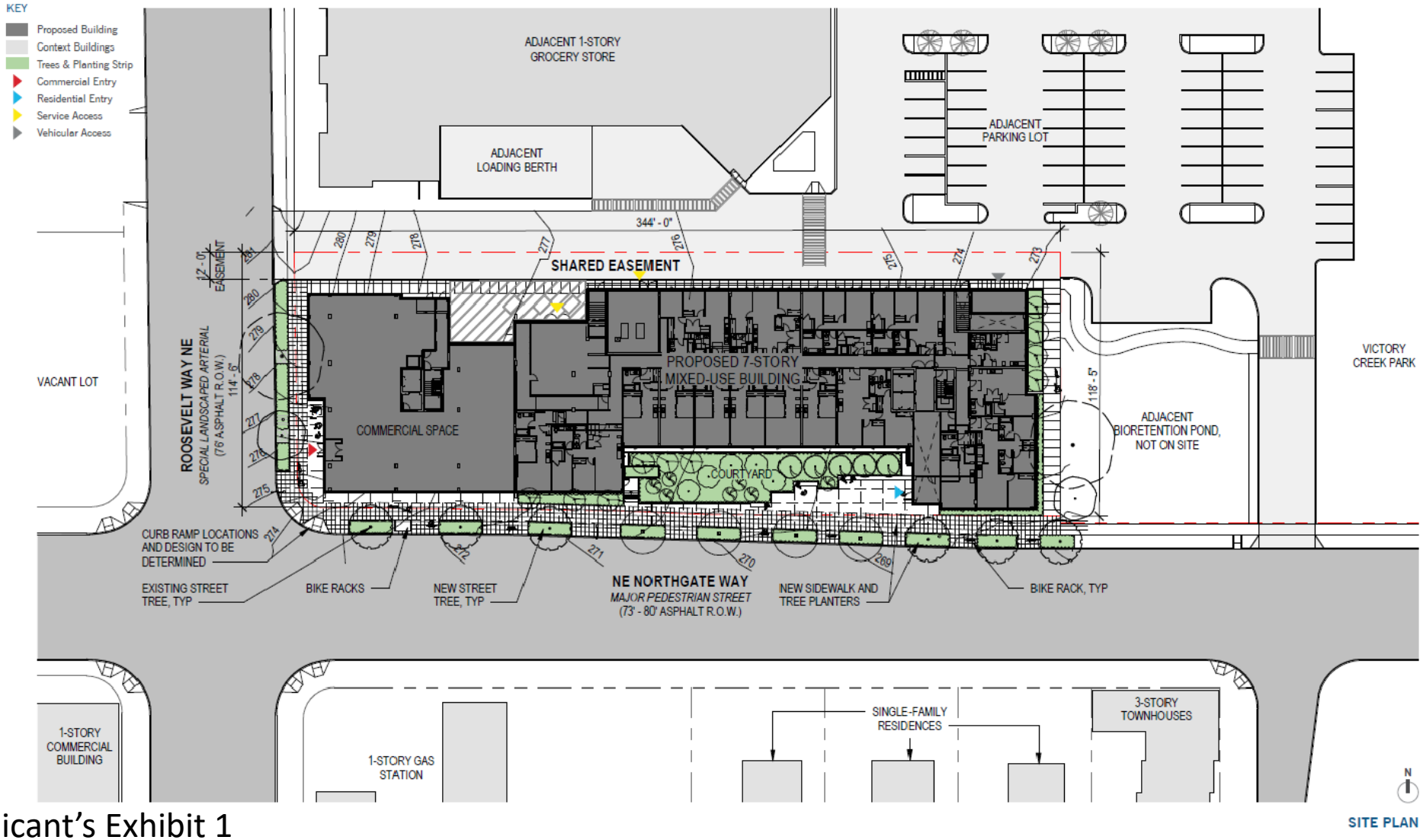


Image from Applicant's Exhibit 1

Process

- SDCI recommendation to conditionally approve published on July 6
- Seattle Hearing Examiner hearing on August 14
- Hearing Examiner recommendation to conditionally approve on August 24
- With no appeals, Council should act by November 22

Hearing Examiner Recommended PUDA Conditions

Prior to Issuance of a Master Use Permit

1. The rezone includes a Mandatory Housing Affordability designation of M1.
2. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. ~~The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58B and/or 23.58C.~~

Prior to Issuance of a Building Permit

3. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3039050-LU.

Actions if Committee approves rezone

- Add Findings, Conclusion and Decision to Clerk File
- Vote to recommend approval of the Clerk File
- Introduce Council Bill with signed PUDA on October 24
- Council vote on October 31 or November 7

Questions?

SEATTLE CITY COUNCIL
CENTRAL STAFF

October 17, 2023

M E M O R A N D U M

To: Land Use Committee
From: Lish Whitson, Legislative Analyst
Subject: Clerk File 314513 - 1000 and 1020 NE Northgate Way Rezone

On October 20, the Land Use Committee (Committee) will have a briefing and may make a recommendation to City Council on Clerk File (CF) 314513, which is an application by Andrew Kluess, Caron Architecture (Applicant) for a contract rezone of a site located at 1000 and 1020 NE Northgate Way in the Northgate Urban Center. If the Committee recommends approval of the rezone, a Council Bill (Exhibit 1) to effectuate the rezone will be introduced for action at the City Council alongside Clerk File 314513.

This memorandum: (1) provides an overview of the rezone application contained in CF 31451; (2) 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 (3) describes next steps.

Overview of Rezone Application

The Applicant has applied for a contract rezone for the two lots on the northeast corner of NE Northgate Way and Roosevelt Way NE from Neighborhood Commercial 3 with a 55-foot height limit and M Mandatory Housing Affordability (MHA) suffix (NC3-55 (M)) to Neighborhood Commercial 3 with a 65-foot height limit and M1 MHA suffix (NC3-65 (M1)). The proposal site is approximately 40,000 square feet in size.

The application includes a Master Use Permit to redevelop the site with a mixed use building with 184 affordable apartment units, retail fronting on Northgate Way, and 88 parking spaces. According to plans approved by SDCI, as shown on Applicant's Exhibit 2, there would be 13 studios, 103 one-bedroom apartments, 42 two-bedroom apartments, and 28 3-bedroom apartments in the project. According to a regulatory agreement with the Seattle Office of Housing (Applicant's Exhibit 3, Exhibit 2 to this memo) and testimony provided at the hearing, a majority of the units would be affordable to households earning up to 60 percent of the area median income, through Low Income Tax Credits, with the remaining units affordable to households earning up to 80 percent of the area median income.[1]

[1] The regulatory agreement was signed in November 2022, prior to final review of the project by SDCI. The unit counts in the regulatory agreement are slightly higher than the final plans show. In the regulatory agreement, 60% of units would be affordable to households with incomes at or below 60% of the area median income.

On July 6, 2023, the Seattle Department of Construction and Inspections (SDCI) issued an affirmative recommendation to conditionally approve the application. On August 14, 2023, the Deputy Hearing Examiner held an open-record public hearing on the proposed rezone. On August 24, 2023, the Deputy Hearing Examiner recommended conditional approval.

The Hearing Examiner's recommended conditions are included as Attachment 1 to their Findings and Recommendation (Exhibit 3).

Type of Action

A Council decision on the rezone application is quasi-judicial.[2] 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.[3]

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 fifty-minute hearing can be accessed through the Hearing Examiner's website.[4] Excerpts from the record, including the rezone application, early design guidance outreach packet, the State Environmental Policy Act (SEPA) checklist, the SDCI recommendation, and public comments are contained in the Legistar record for CF 314513.

Committee Decision Documents

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

<u>CF 314513 - Findings, Conclusions and Decision</u>

Council staff has drafted a proposed Council Findings, Conclusions and Decision (Exhibit 4), which:

- Adopts the Hearing Examiner's findings and conclusions, and
- Adopts the rezone conditions recommended by the Hearing Examiner, with one amendment. The Hearing Examiner's recommended rezone condition 7 states:

[2] Seattle Municipal Code (SMC) Section 23.76.036.
[3] Adopted by Resolution 31602 (2015).
[4] Case Details for CF-314513 (seattle.gov).

7. *Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58B and/or 23.58C.*

As an affordable housing project with more than 40% of units restricted to households with incomes below 60 percent of the area median income, the project is exempt from MHA requirements. Because Chapters 23.58B and 23.58C (the chapters of the Land Use Code including MHA requirements), already include payment and performance calculation amounts, this second step of adding those requirements to the PUDA is redundant, and Central Staff recommends not including requirements in the PUDA that are different from those in the Land Use Code. Consequently, the second sentence should not be included in the PUDA.

Rezone Bill

A Rezone Bill to amend the Official Land Use Map to rezone the sites and approve and accept the executed PUDA included with Exhibit 1 should be introduced and adopted alongside the Clerk File. This rezone bill would effectuate the rezone.

Next Steps

The rezone application will be considered by the Committee for a potential recommendation to City Council on October 20. If the Committee recommends approval of the rezone, the Council Bill included as Exhibit 1 to this memo will be introduced at the City Council meeting on Tuesday, October 24. Depending on Committee action, a City Council vote on the bill would occur at the November 7 City Council meeting.

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

Exhibits:
1. Draft Council Bill
2. Regulatory Agreement
3. Findings and Recommendation of the Hearing Examiner
4. Draft Findings, Conclusions and Decision

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 page 16 of the Official Land Use Map to rezone the property at 1000 and 1020 NE Northgate Way from Neighborhood Commercial 3 with a 55 foot height limit and an M Mandatory Housing Affordability Suffix (NC3 55 (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 Andrew Kluess, Caron Architecture, C.F. 314513, SDCI Project 3037590-LU)

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones the property commonly known as 1000 NE Northgate Way and 1020 NE Northgate Way, legally described as follows:

PARCEL A:

Lots 1 through 7, inclusive, Block 5, MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE, according to the plat thereof recorded in Volume 5 of Plats, page 88, records of King County Washington;

EXCEPT that portion of Lot 1 conveyed to King County for road by Deed recorded under Recording No. 1984380;

AND EXCEPT those portions condemned under King County Superior Court Cause Nos. 144182 and 695303 for roads;

AND EXCEPT those portions taken for the widening of roads adjoining pursuant to City of Seattle Ordinance No. 96568;

AND EXCEPT that portion thereof conveyed to City of Seattle for widening of roads adjoining under Recording No. 8110050337;

DRAFT

TOGETHER WITH that portion of vacated Northeast 111th Street adjoining which attached by operation of law pursuant to City of Seattle Ordinance No. 121629, recorded under Recording No. 20050602001291.

PARCEL B:

Lots 8 through 12, inclusive, Block 5. MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE, according to the plat thereof recorded in Volume 5 of Plats, page 88, records of King County, Washington;

EXCEPT those portions condemned under King County Superior Court Cause No. 144182, lying within the South 30 feet of the West half of the Northeast quarter of the Southeast quarter of Section 29, Township 26, North, Range 4 East, W.M., in King County, Washington;

AND EXCEPT those portions condemned under King County Superior Court Cause No. 695303 for roads;

AND EXCEPT those portions taken for the widening of roads adjoining pursuant to City of Seattle Ordinance No. 96568;

TOGETHER WITH that portion of vacated Northeast 111th Street adjoining which attached by operation of law pursuant to City of Seattle Ordinance No. 121629, recorded under Recording No. 20050602001291.

BOTH SITUATE in the County of King, State of Washington.

Section 2. Page 16 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

DRAFT

in Exhibit A to this ordinance, from Neighborhood Commercial 3 with a 55 foot height limit and an M Mandatory Housing Affordability Suffix (NC3-55 (M)) to Neighborhood Commercial 3 with a 65 foot height limit and an M1 Mandatory Housing Affordability Suffix (NC3-65 (M1)). Approval of this rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved in Section 4 of this ordinance.

Section 3. The zoning designations established by Section 2 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.

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.

DRAFT

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.

_____

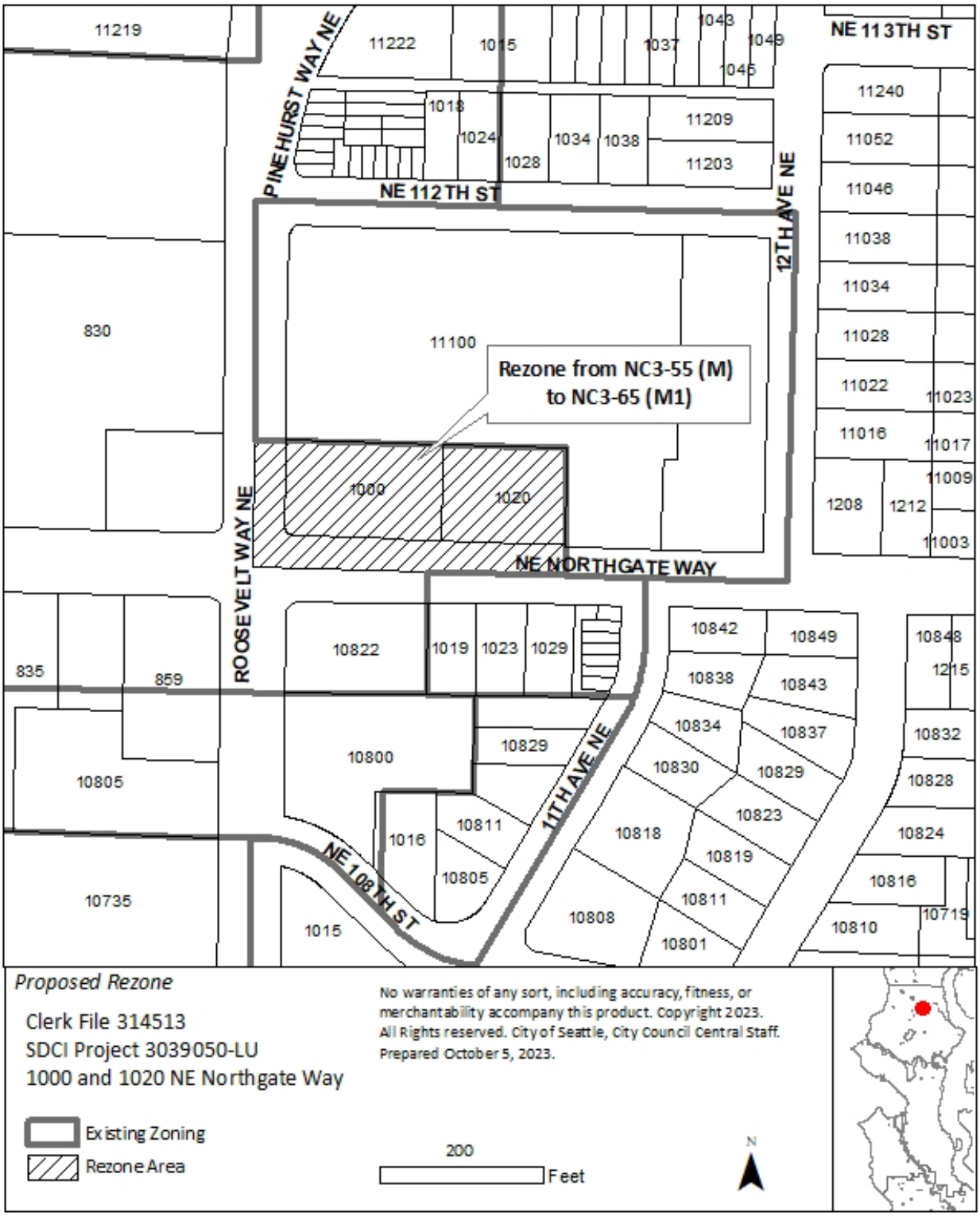
Scheereen Dedman, City Clerk

(Seal)

Exhibits:
Exhibit A – Rezone Map
Exhibit B – Property Use and Development Agreement for 1000 and 1020 NE Northgate Way

DRAFT

Exhibit A – Rezone Map
V1



Executed Property Use and Development Agreement for

the Rezone of 1000 and 1020 NE Northgate Way

(Clerk File 314513)

Return Address:
The City Clerk
600 4th Ave., Floor 3
PO Box 94728
Seattle, WA 98124-4728

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document **must** be filled in)
1. Property Use and Development Agreement 2. _____
3. _____ 4. _____

Reference Number(s) of Documents assigned or released:
Additional reference #'s on page N/A of document

Grantor(s) Exactly as name(s) appear on document
1. Victory Northgate LLLP, _____
2. _____, _____
Additional names on page _____ of document.

Grantee(s) Exactly as name(s) appear on document
1. City of Seattle, _____
2. _____, _____
Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)
Parcel A: Lots 1 through 7 inclusive, Block 5, Munson-Custers to Green Lake Circle;
Parcel B: Lots 8-12 inclusive, Block 5, Munson-Custers to Green Lake Circle
Additional legal is on page 2 of document.

Assessor's Property Tax Parcel/Account Number ☐ Assessor Tax # not yet assigned
5724500819 and 5724500825

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional $50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

Abigail Pearl DeWeese
Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional $50 fee if the document meets margin/formatting requirements

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):	VICTORY NORTHGATE LLLP
Grantee:	THE CITY OF SEATTLE
Legal Description (*abbreviated if necessary*):	Parcel A: Lots 1 through 7, inclusive, Block 5, MUNSON-CUSTERS TO GREEN LK CIRCLE TOGETHER WITH VACATED NE 111TH ST ADJ PER ORD #121629 LESS STREETS Parcel B: Lots 8 through 12, inclusive, Block 5. MUNSON-CUSTERS TO GREEN LK CIRCLE TOGETHER WITH VACATED NE 111TH ST ADJ PER ORD #121629 LESS STREETS BOTH SITUATE in the County of King, State of Washington.
Assessor's Tax Parcel ID #:	5724500819 and 5724500825
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 12 day of October, 2023, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by VICTORY NORTHGATE LLLP, a Washington limited liability partnership ("Owner").

RECITALS

A. VICTORY NORTHGATE LLLP, is the owner of that certain real property consisting of two parcels (collectively "Property") in the City of Seattle currently zoned Neighborhood Commercial 3-55 and an M Mandatory Housing Affordability Suffix (NC3-55 (M)) and the Northgate Overlay District, shown in Attachment A and legally described as:

Parcel A:

Lots 1 through 7, inclusive, Block 5, MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE, according to the plat thereof recorded in Volume 5 of Plats, page 88, records of King County Washington;
EXCEPT that portion of Lot 1 conveyed to King County for road by Deed recorded under Recording No. 1984380;
AND EXCEPT those portions condemned under King County Superior Court Cause Nos. 144182 and 695303 for roads;
AND EXCEPT those portions taken for the widening of roads adjoining pursuant to City of Seattle Ordinance No. 96568;
AND EXCEPT that portion thereof conveyed to City of Seattle for widening of roads adjoining under Recording No. 8110050337;

TOGETHER WITH that portion of vacated Northeast 111th Street adjoining which attached by operation of law pursuant to City of Seattle Ordinance No. 121629, recorded under Recording No. 20050602001291.

Parcel B:

Lots 8 through 12, inclusive, Block 5. MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE, according to the plat thereof recorded in Volume 5 of Plats, page 88, records of King County, Washington;
EXCEPT those portions condemned under King County Superior Court Cause No. 144182, lying within the South 30 feet of the West half of the Northeast quarter of the Southeast quarter of Section 29, Township 26, North, Range 4 East, W.M., in King County, Washington;
AND EXCEPT those portions condemned under King County Superior Court Cause No. 695303 for roads;
AND EXCEPT those portions taken for the widening of roads adjoining pursuant to City of Seattle Ordinance No. 96568;

TOGETHER WITH that portion of vacated Northeast 111th Street adjoining which attached by operation of law pursuant to City of Seattle Ordinance No. 121629, recorded under Recording No. 20050602001291.

BOTH SITUATE in the County of King, State of Washington.

B. In 2022, the Owner submitted to the City an application under Project No. 3039050-LU for a rezone of the Property from Neighborhood Commercial 3-55 with an M Mandatory Housing Affordability designation (NC3-55' (M)) Northgate Overlay District to Neighborhood Commercial 3-65 with an M1 Mandatory Housing Affordability designation (NC3-65' (M1)) Northgate Overlay District (the "Rezone").

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 conditions in consideration of the Rezone:

Prior to Issuance of a Building Permit

1. The rezone includes a Mandatory Housing Affordability designation of M1.
2. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C.

For the Life of the Project

3. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3039050-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 12 day of October, 2023.

VICTORY NORTHGATE LLLP, a Washington limited liability partnership

By: _____

Name: Gregory Dunfield

Its: President

STATE OF WASHINGTON

COUNTY OF King } ss.

This record was acknowledged before me on October 12, 2023 by Gregory Dunfield as president of Victory Northgate LLLP a Washington limited liability partnership.

[*Stamp Below*]

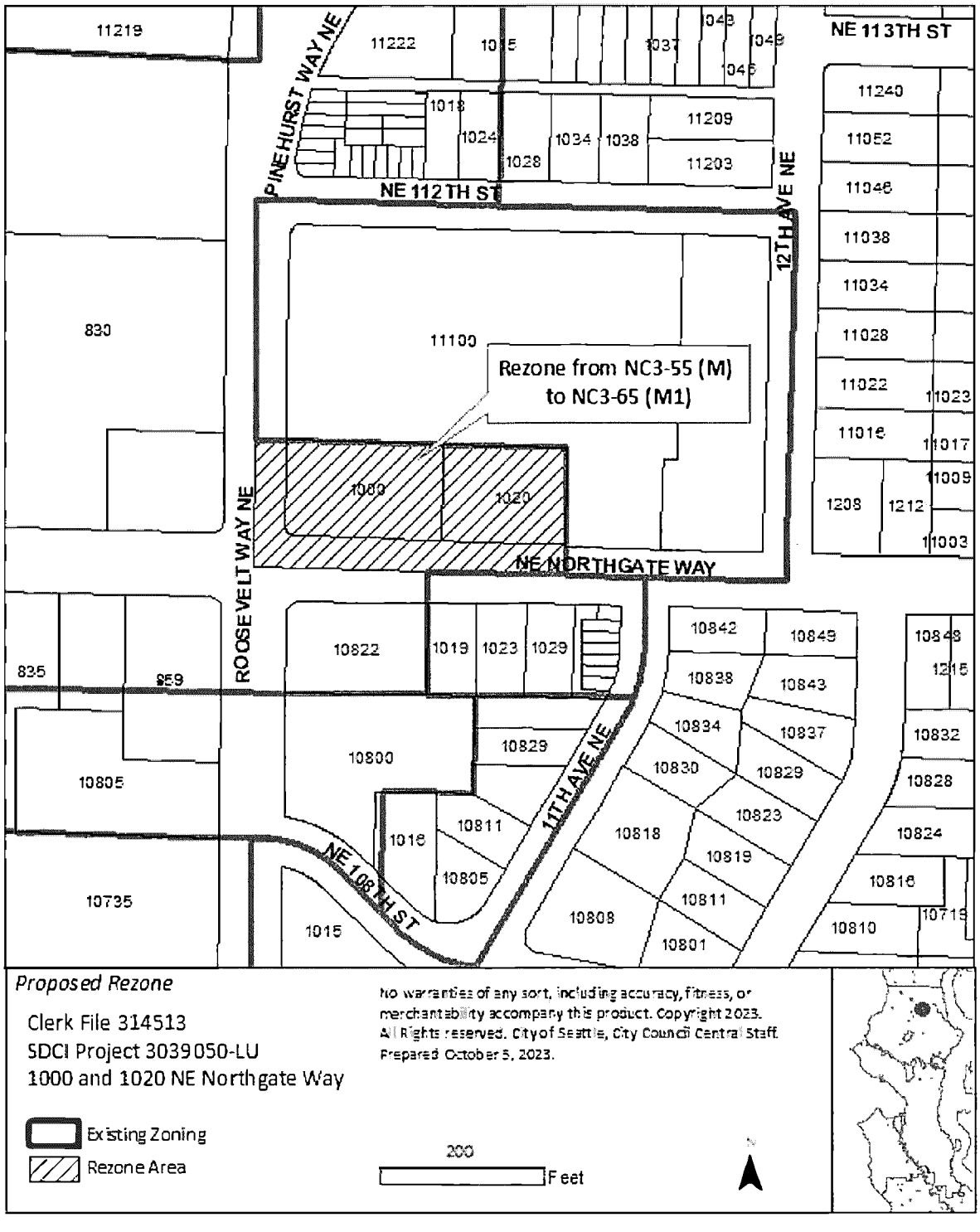
HANNAH DUTT
Notary Public
State of Washington
Commission # 23016272
My Comm. Expires Jun 10, 2027

_____
Signature

NOTARY PUBLIC in and for the State of Washington

My Commission Expires June 10, 2027

ATTACHMENT A



Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-1 of 33
Record Date:11/30/2022 4:42 PM
Electronically Recorded King County, WA

Return Address:

Office of Housing
700 Fifth Avenue, Suite 5700
Post Office Box 94725
Seattle, Washington 98124-4725
Attn.: Rosey Zhou

Unofficial Copy

REGULATORY AGREEMENT
(Covenants and Easements for Low-Income Housing)

Grantor(s):

1. **VICTORY NORTHGATE LLLP**
2. **AOF VICTORY NORTHGATE LLC**
3. **VICTORY NORTHGATE GMD LLC**
4. **GMD DEVELOPMENT LLC**

Grantee(s):
1. **THE CITY OF SEATTLE**

Legal Description:

1. Abbreviated: Portion of Lots 1 through 12, inclusive, Block 5, MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE

2. **Additional legal description is on page 3 of document.**

Assessor's Property Tax Parcel Account Number(s): 572450-0819-04 and 572450-0825-06

Old Republic Title, Ltd.
26-8813

https://recordsearch.kingcounty.gov/LandmarkWeb/search/index?theme=.blue&section=searchCriteriaParcelId&quickSearchSelection=#

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-2 of 33
Record Date:11/30/2022 4:42 PM King County, WA

REGULATORY AGREEMENT
(VICTORY NORTHGATE)

CONTENTS

Part I: Summary of Property-Specific Terms

Part II: General Provisions

Section 1: Definitions
Section 2: Low-Income Housing; Rent and Occupancy Requirements
Section 3: Reporting and Records
Section 4: Term; Covenants Run with the Land
Section 5: Remedies; Enforceability
Section 6: Recordation; Amendments; Termination
Section 7: No Conflict with Other Documents
Section 8: Severability
Section 9: Vacancies; Nondiscrimination; Affirmative Marketing; Tenant Selection
Section 10: Insurance
Section 11: Involuntary Loss
Section 12: Maintenance of Property
Section 13: Grant of Easement
Section 14: Leases; Fees
Section 15: Management Agent
Section 16: No Assumption of Obligations by City
Section 17: Notices
Section 18: Reserved
Section 19: Project Evaluation
Section 20: Governing Law; Venue
Section 21: Time
Section 22: Obligations of Borrower and Co-Grantor(s)

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-3 of 33
Record Date:11/30/2022 4:42 PM King County, WA

REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT ("Regulatory Agreement") is entered into as of November 30, 2022, by and among **VICTORY NORTHGATE LLLP**, a Washington limited liability limited partnership ("Borrower" of "Partnership"), **VICTORY NORTHGATE GMD LLC**, a Washington limited liability company ("General Partner #1"), **AOF VICTORY NORTHGATE LLC**, a Washington limited liability company ("General Partner #2," collectively, along with General Partner #1, "GP") and **GMD DEVELOPMENT LLC**, a Washington limited liability company ("Sponsor") (collectively, the Borrower, GP and Sponsor are referred to as "Grantor"), in favor of **THE CITY OF SEATTLE**, a Washington State municipal corporation (the "City").

Unofficial Copy

RECITALS

WHEREAS the City and the Grantor desire that decent, safe and sanitary housing for low-income households be provided in the building(s) to be constructed or renovated on the real property at the address stated below in Seattle, Washington, legally described as follows (which, including all improvements now or hereafter thereon, is referred to as the "Property"):

Parcel A:

Lots 1 through 7, inclusive, Block 5, MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE, according to the plat thereof recorded in Volume 5 of Plats, page 88, records of King County, Washington;
EXCEPT that portion of Lot 1 conveyed to King County for road by Deed recorded under Recording No. 1984380;
AND EXCEPT those portions condemned under King County Superior Court Cause Nos. 144182 and 695303 for roads;
AND EXCEPT those portions taken for the widening of roads adjoining pursuant to City of Seattle Ordinance No. 96568;
AND EXCEPT that portion thereof conveyed to City of Seattel for widening of roads adjoining under recorded under Recording No. 8110050337;

TOGETHER WITH that portion of vacated Northeast 111th Street adjoining which attached by operation of law pursuant to City of Seattle Ordinance No. 121629, recorded under Recording No. 20050602001291.

Parcel B:

Lots 8 through 12, inclusive, Block 5, MUNSON & CUSTER'S ADDITION TO GREEN LAKE CIRCLE, according to the plat thereof recorded in Volume 5 of Plats, page 88, records of King County, Washington;
EXCEPT those portions condemned under King County Superior Court Cause Nos. 144182, lying within the South 30 feet of the West half of the Northeast quarter of

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-4 of 33
Record Date:11/30/2022 4:42 PM King County, WA

the Southeast quarter of Section 29, Township 26 North, Range 4 East, W.M., in King County, Washington;
AND EXCEPT those portions condemned under King County Superior Court Cause No. 695303 for roads;
AND EXCEPT those portions taken for the widening of roads adjoining pursuant to City of Seattle Ordinance No. 96568;

TOGETHER WITH that portion of vacated Northeast 111th Street adjoining which attached by operation of law pursuant to City of Seattle Ordinance No. 121629, recorded under Recording No. 20050602001291.

BOTH SITUATE in the County of King, State of Washington

Unofficial Copy

WHEREAS, the City has committed, subject to certain terms and conditions, to make a loan to the Borrower (the "Loan"), to finance a portion of the costs of the Borrower's acquisition of the Property, and in partial consideration of the Loan the Grantor is willing to commit to provide Low-Income Housing on the Property as described below; and

WHEREAS, the City and the Grantor desire that the use of all or a portion of the Property be restricted to serving as housing for Low-Income Families (as defined below) to the extent indicated below), for a minimum period of approximately ninety-nine (99) years from the Latest Commencement Date (as defined below), and in consideration of the City's agreement to make the Loan, the Grantor has agreed to certain commitments and to place certain restrictions on the Property; and

NOW, THEREFORE, the Grantor hereby agrees to and does hereby grant to the City and impose upon the Property, and upon any interest in the Property now held or hereafter acquired by the Grantor, the following covenants, restrictions, charges and easements, which shall run with the land, be a burden upon the Property and all portions thereof, and shall be binding upon any purchaser, grantee, owner or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner or lessee of any portion of the Property and any other person or entity having any right, title or interest therein, for the term of this Regulatory Agreement.

Part I: Summary of Property-Specific Terms

Item	**Terms**
the Grantor's Mailing Address and Phone	c/o GMD Development LLC, 520 Pike Street, Suite 1010, Seattle, Washington 98101
Maximum Loan Amount	$16,000,000.00
Fund Source(s) for this Loan	Levy and other local funds

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-5 of 33
Record Date:11/30/2022 4:42 PM King County, WA

Property Address	1000 NE Northgate Way, Seattle, Washington 98125			
# of Extremely Low-Income Units	HOME- funded	0	Other	0
# of Very Low-Income Units	HOME- funded	0	Other	7
# 60%-of-Median-Income Units	HOME- funded	0	Other	106
# of other Low-Income Units	HOME- funded	0	Other	77
Total Manager Units	HOME- funded	0	Other	0
Total City-funded Units	HOME- funded	0	Other	123
Total Units		190		
# of City-funded Units for Homeless Families		Not Applicable		
Special population to be served, if any		Not Applicable		
Latest Commencement Date		April 30, 2025		

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Part II: General Provisions

Section 1. **Definitions.** Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above, and the following terms shall have the respective meanings set forth below for the purposes hereof:

"60%-of-Median-Income Family" means a Family whose Annual Income does not exceed sixty percent (60%) of Median Income.

"60%-of-Median-Income Housing" means housing for 60%-of-Median-Income Families, consisting solely of Units with Rent and occupancy restricted as 60%-of-Median-Income Units in accordance with the terms of Section 2 of this Regulatory Agreement.

"Annual Income" means the annual income of a Family as determined, unless otherwise approved in writing by the City, in accordance with 24 C.F.R. § 5.609 or successor provision, and unless otherwise approved in writing by the City shall be calculated in accordance with 24 C.F.R. § 92.203(d) or successor provision, subject to any interpretations, modifications or assumptions that may be promulgated by HUD. The Grantor shall follow the requirements in 24 C.F.R. § 5.617 when

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-6 of 33
Record Date:11/30/2022 4:42 PM King County, WA

making subsequent Annual Income determinations of persons with disabilities after their initial occupancy.

"City-funded Units" mean all dwelling units to be constructed on the Property, together with all rights and interests in the Property appurtenant to those dwelling units funded by proceeds of the Loan. The City-funded Units are more specifically identified in Section 2(c) below.

"CPI" means the Housing Component of the Consumer Price Index (All Urban Consumers) for Rent of Primary Residences for the Seattle area as published by the U. S. Bureau of Labor Statistics ("BLS"). If the BLS shall no longer publish that series, then "CPI" shall mean such other index as the City shall select or construct in its sole discretion as a basis for estimating changes in consumer rental housing costs, based on any data for the Seattle area or an area including Seattle, published or reported by a federal, state, or local agency, as the City shall select in its sole discretion.

"CPI Increase" means, as of any date, the annual percentage increase in the CPI as most recently determined and published by OH for Rent increase calculations. Publication may be made by posting on the OH website or by such other means as the OH Director shall determine, or both.

"Deed of Trust" means the Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing executed by the Borrower and the Sponsor and delivered to the City to secure, among other things, the repayment of the Loan and the performance of the agreements made in the Promissory Note and Loan Agreement, granting a mortgage lien on and security interest in the Property, as it may be amended.

"Extremely Low-Income Family" means a Family whose Annual Income does not exceed thirty percent (30%) of Median Income.

"Extremely Low-Income Housing" means housing for Extremely Low-Income Families, consisting solely of Units with Rent and occupancy restricted as Extremely Low-Income Units in accordance with the terms of Section 2 of this Regulatory Agreement.

"Family" has the meaning set forth in 24 C.F.R. § 5.403, or successor provision, and includes an individual person.

"Homeless Family" means a Family that:

(a) lacks a fixed, regular, and adequate nighttime residence; or

(b) has, or had within thirty (30) days before occupancy of a City-funded Unit in the Property, a primary nighttime residence that is:

  (i) a supervised, publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels and congregate shelters); or

  (ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-7 of 33
Record Date:11/30/2022 4:42 PM King County, WA

(iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(iv) Transitional Housing; or

(c) is certified by a public or nonprofit agency, acceptable to the City, to be in imminent danger of becoming a Homeless Family under paragraph (a) or (b) above.

"HUD" means the United States Department of Housing and Urban Development or any successor agency.

"Loan" means the loan made by the City to the Borrower under the Loan Agreement to finance certain of the acquisition, development and construction costs of the Property.

"Loan Agreement" means the Loan Agreement between the City and the Borrower with respect to the Property dated on or about the date hereof, as such agreement may be amended from time to time.

"Loan Documents" means the Loan Agreement, the Promissory Note, the Deed of Trust, this Regulatory Agreement, all documents attached as exhibits to or incorporated by reference in any of the foregoing, and any amendments to any of the foregoing duly executed and delivered by the City and/or the Grantor.

"Low-Income Family" means a Family whose Annual Income does not exceed eighty percent (80%) of Median Income.

"Low-Income Housing" means housing for Low-Income Families for and occupied by, households with annual incomes no higher than eighty percent (80%) of Median Income, as more specifically set forth in Section 2 of this Regulatory Agreement.

"Management Agent" means any person or entity retained by or on behalf of the Grantor to manage the Property, or the lessee or sublessee under any master or operating lease or sublease for the Property, but shall not include the Grantor or any employee of the Grantor acting as such in management of the Property.

"Maximum Formula Rent" for a Unit at any time means the maximum rent that may be charged for the Unit that is consistent with all of the following: (a) all of the applicable subsections of Section 2 below; (b) each other agreement between the Grantor and any State, county or federal agency or commission with respect to the Unit to which the City has expressly consented; and (c) any Section 8 contract or other subsidy contract approved by OH with respect to the Unit.

"Median Income" means median family income for the Seattle area, as published from time to time by HUD, as adjusted for Family size so that the ratio of the Median Income for any Family size to such published median family income is the same as the ratio of the "low-income" limit for that Family size published by HUD for the Section 8 subsidy program for the Seattle area, or any successor program, to the "low-income" limit for that program for a Family size of four persons as published by HUD. If in any year HUD shall publish median family income data for more than one

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-8 of 33
Record Date:11/30/2022 4:42 PM King County, WA

area that includes Seattle, then unless otherwise approved in writing by the OH Director, the lowest of such median family income figures shall be used. If, at any time, Median Income for a Family size cannot be determined under the foregoing sentences based on data published by HUD for the Seattle area within the most recent thirteen (13) months, then the City may determine "Median Income" for such Family size based on any data for the Seattle area or an area including Seattle, published or reported by a federal, state, or local agency, as the City shall select in its sole discretion, adjusted for Family size in such manner as the City shall determine in its sole discretion. For Family sizes that are not integers, the Median Income shall be determined by the City by averaging the Median Incomes for the next higher and lower integral Family sizes as determined under this paragraph.

"OH" means the City of Seattle Office of Housing or any other department or agency that shall succeed to its functions with respect to low-income housing.

"Project" has the meaning set forth in the Loan Agreement.

"Promissory Note" means the Promissory Note executed and delivered by the Borrower to the City and dated on or about the date hereof, evidencing the Borrower's obligation to repay the Loan, and any replacement or substitution thereof or therefor.

"Property" means the land described in the recitals above and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed, installed or located thereon.

"Rent" shall include all amounts paid directly or indirectly for the use or occupancy of a Unit and of common areas of the Property.

"Rent Schedule" shall mean the initial schedule provided to the City pursuant to Section 2 below, when approved by the City, and each subsequent schedule of Rents prepared by the Grantor, consistent with the terms hereof, showing the Rents and Utility Allowances for City-funded Units.

"Section 8" means Section 8 of the United States Housing Act of 1937, as now and hereafter amended, and HUD regulations thereunder.

"SHA" means the Housing Authority of the City of Seattle, its successors or assigns.

"SMC" means the Seattle Municipal Code, as amended.

"SRO Unit" means a unit of "single room occupancy (SRO) housing," as defined in 24 C.F.R. § 92.2.

"Transitional Housing" means housing that provides supportive services to Families that were formerly Homeless Families, with the intent to stabilize them and move them to permanent housing within a period of not more than twenty-four (24) months.

"Unit" means a dwelling unit in the Property.

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-9 of 33
Record Date:11/30/2022 4:42 PM King County, WA

"Utility Allowance" shall mean an allowance approved by the City for utilities and services payable by tenants, which, unless otherwise required for any Unit by HUD regulations or policies, shall be equal to the utility allowance allowed by the Washington State Housing Finance Commission under 26 U.S.C. § 42, and the regulations pertaining thereto, for so long as such Commission provides such an allowance no less frequently than annually. If such Commission does not provide a utility allowance under such provisions no less frequently than annually, then the Utility Allowance, unless otherwise directed by HUD, shall be equal to the utility allowance published from time to time by the SHA for the type of Unit in which the City determines that utilities are most nearly comparable to those for such Unit, or, if the City determines that no reasonably comparable figures are available from SHA, the utility allowance shall be such amount as the City determines from time to time is an adequate allowance for utilities and services (to the extent such items are not paid for tenants by the Grantor). The Utility Allowance shall not include telephone services.

"Very Low-Income Family" means a family whose Annual Income does not exceed fifty percent (50%) of Median Income.

"Very Low-Income Housing" means housing for Very Low-Income Families, consisting solely of units with Rent and occupancy restricted as Very Low-Income Units in accordance with the terms of Section 2 of this Regulatory Agreement.

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Section 2. Low-Income Housing; Rent and Occupancy Requirements.

(a) General. The Grantor shall develop, own, manage and operate the City-funded Units, and appropriate facilities related thereto, as Very Low-Income Housing, 60%-of-Median-Income Housing and Low-Income Housing in accordance with the terms of the Loan Documents, on a continuous basis during the term hereof, beginning on the "Commencement Date," which shall be the first date upon which the Seattle Department of Construction and Inspections issues a Certificate of Occupancy (temporary or permanent), if required, for the Property after completion of the Project, but in any event no later than the Latest Commencement Date identified in Part I: Summary of Property-Specific Terms. Except as specifically provided in this Section, the Property shall not be devoted to any use other than Very Low-Income Housing, 60%-of-Median-Income Housing and Low-Income Housing together with common areas and support facilities for residents, without the express written consent of OH, in its discretion. If any parking spaces are included in the Property or are allocated to the Property under any condominium documents or agreements, the Grantor covenants that sufficient handicapped-accessible parking spaces shall be made available to satisfy all applicable requirements, including without limitation Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and implementing regulations at 24 C.F.R. Part 8, and that upon request of any resident of an accessible Unit, a handicapped-accessible parking space shall be provided for such resident.

(b) Federal Requirements. The requirements of this subsection (b) apply to the extent that federal funds from the sources indicated below in this subsection are used to subsidize the Property, either through the Loan or otherwise. Except as expressly stated below, the provisions of this subsection (b) are only minimum requirements, and the Grantor must also comply with stricter

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-10 of 33
Record Date:11/30/2022 4:42 PM King County, WA

requirements of other subsections. Any agreement for subsidy with respect to the Property (other than through the City) from any of the sources specified in this subsection shall require the advance written consent of the City. If more than one subsection of this subsection (b) applies to a Unit, then unless otherwise expressly provided in this subsection, the Grantor shall comply with each such subsection.

(i) Reserved.

(ii) Section 8 or Other Rental Subsidy Requirements. At any time when rent for any Unit is subsidized under a Section 8 subsidy contract with a housing authority or another subsidy contract approved by OH, Rent for such Unit, including amounts paid by the subsidy provider, shall not exceed the level permitted under the subsidy provider's regulations for such program and any applicable contract, and the Rent limits in subsection 2(c)(ii) below shall apply only to the tenant's contribution to Rent, so that the tenant's contribution plus the Utility Allowance shall not exceed the applicable limit in subsection 2(c)(ii). However, nothing in this subsection shall affect the Grantor's obligation to comply with the occupancy restrictions in subsection 2(c) below.

(c) Occupancy and Rent Requirements.

(i) Occupancy Requirements. At all times after the Commencement Date, the Grantor shall maintain the number of City-funded Units as set forth below by income class. Each City-funded Unit shall be rented solely to, or reserved for rent solely to, Low-Income Families with Annual Incomes, as of the later of the date hereof or the times of their initial occupancies, no greater than the percentage of Median Income for the respective income class of Unit as set forth below, based on the actual Family size. Units in each income class are in addition to, and not included in, the numbers of Units in higher income classes.

Income Class of Units	Maximum Income (% of median)	Studios	1-bedrooms	2-bedrooms	3-bedrooms
Extremely Low-Income	30%				
Very Low-Income	50%	7			
60%-of-Median-Income	60%		76	10	20
Low Income	80%		37	13	27
Manager Unit(s)[1]					

[1] In the event that any Manager Unit is no longer necessary for the use and operation of the Project, such Unit shall be rented and utilized on terms and conditions approved by OH in its sole and absolute discretion.

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-11 of 33
Record Date:11/30/2022 4:42 PM King County, WA

Total	7	113	23	47

(ii) City Rent Limits Based on Size of Unit. Except as otherwise expressly provided in this Section 2, each City-funded Unit shall be rented at a monthly Rent that, together with the Utility Allowance, is no higher than one-twelfth of the applicable percentage, as set forth below, of the maximum percentage of Median Income set forth above for the respective class of Unit, adjusted for the presumed Family size corresponding to the size of Unit as set forth below, regardless of the number of persons actually occupying the Unit:

Income Class of Unit	Maximum Rent and Utility Allowance as a percentage of income eligibility limit (divided by 12), based on presumed family size
Extremely Low-Income (30% of Median Income)	30%
Very Low-Income (50% of Median Income)	30%
60%-of-Median-Income	30%

For a studio or SRO Unit, Family size = 1.0; for a one-bedroom Unit, Family size = 1.5; for a two-bedroom Unit, Family size = 3.0; for a three-bedroom Unit, Family size = 4.5.

(iii) Reserved.

(iv) Initial Rent Schedule. Prior to the Commencement Date, as established in subsection 2(a), the Grantor shall submit to the City for approval a proposed initial Rent Schedule, consistent with the terms of this Section and all other funding agreements for the Property, showing the designations of City-funded Units by income class, initial Rents and initial Utility Allowances for each Unit type (number of bedrooms), the total and tenant-paid Rent and Utility Allowances, and whether the Rent is subsidized by HUD, SHA or other providers of rental subsidy under any rental subsidy program. In the case of Units with Section 8 contracts, or other subsidy contracts approved by OH, the Rent Schedule shall show the maximum tenants' contributions consistent with subsection 2(c) and the contract rents paid under the subsidy contract. The Grantor shall not charge Rents, or collect tenants' contributions to rents, in excess of amounts shown on an initial Rent Schedule approved by OH unless and until an increase is permitted under subsection 2(e) or 2(g).

(v) Loss of Rent, Operating and/or Service Subsidies.

(1) Reserved.

(2) Reserved.

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-12 of 33
Record Date:11/30/2022 4:42 PM King County, WA

(3) Reserved.

(4) Reserved.

(5) O & M Units. Except as specifically provided in subsection 2(c) above, notwithstanding any other provision of this Section, for so long as any Unit is subsidized by the City Housing Levy Operating and Maintenance Program and the Unit is occupied by an Extremely Low-Income Family, the monthly Rents plus Utility Allowance for such Unit shall be established at thirty percent (30%) of one-twelfth of the actual Annual Income of the Family occupying the Unit, as more specifically determined under the Borrower's operating and maintenance subsidy contract with the City ("O&M Contract"), subject to any provisions of the O&M Contract that permit a lower Rent to be charged.

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(d) Eviction Restrictions. No tenants will be evicted from the Property, nor denied renewal of a lease, solely because their incomes increase after the date of their initial occupancy. No tenancy may be terminated, nor lease renewal denied, for refusal to pay a monthly Rent in excess of that permitted hereunder, or for any reason other than "just cause" under Seattle Municipal Code (SMC) § 22.206.160 or its successor. To the extent permitted by law, a tenant may be evicted for falsification of income or other material information in a rental application, certification or lease agreement.

(e) Rent Schedule; Annual Increases.

(i) **Note: This subsection (e) does not allow Rent or, where applicable,the amount charged to a tenant, for any City-funded Unit to exceed the maximum allowed under any applicable provision of subsections 2(b) or 2(c) above.** In addition: (1) to the extent that any other provisions of this Regulatory Agreement, or any terms offered to pre-existing tenants pursuant to the relocation and anti-displacement provisions of federal regulations, require a lower Rent or a Rent based on Family income, such other provisions shall prevail over this subsection (e); (2) for so long as any Unit is subsidized by HUD or SHA under any Section 8 program, under an O&M Contract, or under another project-based subsidy approved by OH, the provisions of this subsection (e) shall not apply to such Unit; and (3) on the first date when any Unit previously subsidized as described in clause (2) above is rented without any such subsidy, the Rent for such Unit may be established without regard to the Rent previously in effect, and for purposes of future Rent increases that date shall be considered the date of the last Rent increase for such Unit.

(ii) (1) The maximum initial Rents, the designations of City-funded Units by income class and the initial Utility Allowances, shall be as established

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-13 of 33
Record Date:11/30/2022 4:42 PM King County, WA

pursuant to subsection 2(c) above, unless otherwise approved in writing by the City.

(2) Subject to subsection 2(e)(i) above, this subsection 2(e)(ii) shall govern Rent increases.

(3) Upon advance notice to tenants as required by law and by the terms of their leases (but in no event less than thirty (30) days), the Grantor may increase monthly Rents for City-funded Units to the extent consistent with this Regulatory Agreement, but not more frequently than one increase per year, not including increases for specific Units upon tenant turnover.

(4) For purposes of this Regulatory Agreement, the effective date of any Rent increase, except for increases for specific Units upon tenant turnover, shall be the same for all City-funded Units, except that instead of implementing a Rent increase fully as to all City-funded Units on the effective date, the Grantor may defer or phase in increases for some or all City-funded Units occupied by Families with incomes, as most recently certified, at or below the maximum levels for initial occupancy of their respective categories of Units, provided that any differences in rents for similar Units must be consistent with all applicable laws and regulations.

(5) The Grantor shall prepare and submit to the City a new Rent Schedule at least thirty (30) days before the effective date of each increase (other than an increase for a specific Unit upon tenant turnover), showing the total Rents to be charged for each City-funded Unit (when any deferred or phased increases are fully implemented, if applicable), showing the applicable income classes and Utility Allowances, identifying which Units are subject to any limit or preference other than based on income (describing such limit or preference), and identifying which Units are subsidized under any Section 8 contract or other project-based subsidy arrangement. The Rent Schedule shall show the amount and percentage of the increase for each Unit from the last Rent Schedule, and for each Unit for which there was at least one intervening increase pursuant to subsection 2(e)(ii)(8) below, the Rent Schedule shall show the date of the last increase, the Rent that then became effective, and the percentage increase, if any, from that Rent to the new Rent for that Unit.

(6) Except as may be allowed pursuant to subsection 2(e)(ii)(7) below, the percentage Rent increase for a Unit shall not exceed the greater of (i) one and one-half percent (1.5%), or (ii) the CPI Increase as most

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-14 of 33
Record Date:11/30/2022 4:42 PM King County, WA

recently published by OH as of the date of the Rent Schedule submitted pursuant to subsection 2(e)(ii)(5) above.

(7) Upon Grantor's request, City may, in its sole discretion, approve a percentage increase in Rent on one or more Units greater than the applicable percentage increase permitted in subsection 2(e)(ii)(6) above, if the Grantor provides evidence acceptable to the City that the Property has experienced expenses that would justify such a larger Rent increase, and provided that the Rent is consistent with subsection 2(c) of this Regulatory Agreement and any other limit applicable under subsection 2(b).

(8) Upon reletting of a Unit after the termination of occupancy of the Family previously occupying that Unit, without any violation or breach by the Grantor or its agent of any terms of this Regulatory Agreement or any applicable law or ordinance, the Grantor may increase the Rent for that Unit to the maximum allowable rent based on the number of bedrooms in the Units and the income class as stated in subsection 2(c)(ii), above, subject to the terms of subsections 2(b) and 2(c).

(9) Except as expressly permitted in this subsection 2(e) or subsection 2(g) below, no other rent increases shall be implemented without the City's prior written approval, which may be withheld in the City's sole discretion.

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(f) Annual Certifications. The Grantor shall obtain from each tenant, no less frequently than annually, a certification of Family size and Annual Income, in form acceptable to the City. If so requested by the City, the Grantor shall obtain such certifications and/or examine incomes and Family sizes at any other times upon reasonable advance notice from the City. The Grantor shall maintain all certifications and documentation obtained under this subsection on file for at least five (5) years after they are obtained, and shall make them available to the City or HUD for inspection and copying promptly upon request.

(g) Over-Income Tenants.

(i) Mandatory Rent Increase. If, at any recertification of incomes, the Annual Income of a Family in one of the City-funded Units on the Property that is not then subsidized under a Section 8 program or another subsidy contract approved by OH exceeds one hundred forty percent (140%) of the income limit for the class of the Unit as identified in Section 2(c), and if the Rent for that Unit is less than the Maximum Formula Rent, then the Grantor shall increase the rent for that Unit, or the portion of rent payable by the tenant if only that portion is then subject to limit under subsection 2(c)(ii), to the Maximum Formula Rent, and shall give notice to the tenant of the new

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-15 of 33
Record Date:11/30/2022 4:42 PM King County, WA

monthly rate within thirty (30) days after the recertification of income. Such increase shall take effect on the first day of the first monthly rental period commencing thirty (30) days after notification, or sixty (60) days after notification if SMC § 7.24.030 applies, or after such longer period as may be required by law or by any recorded covenant having priority over this Regulatory Agreement. The Grantor shall continue to charge the Maximum Formula Rent for the Unit unless and until there is a change in tenancy or the income of the Family in the Unit is determined to be less than one hundred forty percent (140%) of the income limit for the class of the Unit.

(ii) Optional Rent Increases. If, at any recertification of incomes, the Annual Income of a Family in one of the City-funded Units exceeds sixty-five percent (65%) of Median Income, the Grantor may notify the tenant and the City that, beginning on a date no earlier than one (1) year after the date of such certification of income, the tenant shall be charged a higher monthly Rent than would otherwise apply under this Regulatory Agreement, including subsection 2(g)(i) if applicable, but such tenant's Rent plus Utility Allowance shall not exceed one-twelfth (1/12) of thirty percent (30%) of the tenant Family's actual income or the applicable limit under subsections 2(b) or 2(c), if lower. This notice may be combined with a notice required under subsection 2(g)(i). Such increase may take effect on the date indicated in the notice unless the tenant Family's Annual Income, as determined by the most recent recertification as of that date, is no greater than sixty-five percent (65%) of Median Income. When the income of a tenant Family that is paying up to thirty percent (30%) of actual Family income for Rent and utilities pursuant to the preceding sentence decreases to a level below thirty percent (30%) of Median Income, in the case of Extremely Low-Income Unit, fifty percent (50%) of Median Income, in the case of a Very Low-Income Unit, or sixty percent (60%) of Median Income, in the case of a 60%-of-Median Income Unit, the limit on the tenant Family's Rent shall be the maximum Rent that would have been applicable if no increase in the Family's income had occurred, effective as of the first rental period after the date of certification of the decrease in Family income.

(iii) Reserved.

(h) Excessive Rents.

(i) If the City makes a preliminary determination that the Grantor has charged or collected Rents, or imposed Rent increases, in excess of the limits hereunder, the City may give the Grantor written notice of such determination and if the Grantor does not respond in writing within thirty (30) days such determination shall be final and binding. If the Grantor disputes the City's determination that a rent increase exceeds permissible limits, or that excess Rents have been collected, or the amount of any excess, by a written response within such 30-

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-16 of 33
Record Date:11/30/2022 4:42 PM King County, WA

day period stating in detail the basis for the Grantor's disagreement with the City's preliminary determination, the parties shall meet and attempt to resolve any differences. If agreement is not reached within thirty (30) days after the City's receipt of the Grantor's response, the City may require, upon ten (10) days' notice, that the Grantor either accept the City's final determination or elect to have the matter determined by an independent certified public accountant (or, if so agreed by both parties, any other qualified person) acceptable to the City, whose determination as to the maximum Rents permitted hereunder and the amount of any excess Rents collected shall be final and binding on both parties. The full cost of the audit shall be paid by the party whose final position as to the amount of excess Rents, if any, prior to submission of the matter to the accountant, was farthest in dollar amount from the accountant's final determination. Pending resolution of any dispute as described in this subparagraph, the Grantor shall not be required to refund any Rents but may be required to rescind or reduce Rent increases so that Rents do not exceed levels agreed by both parties to be permissible.

(ii) After any final determination that any Rent increase exceeds the limits hereunder or that Rents have been collected by the Grantor or its agents in excess of the limits hereunder, the City may (1) require the Grantor to reduce Rents or rescind Rent increases so that Rent is within such limits, and/or (2) to the extent necessary to offset any excess Rent collected plus interest thereon at the rate of twelve percent (12%) per annum, require one or more of the following: (A) that the Grantor make refunds to the tenants making overpayments; (B) that the Grantor reduce Rents below levels otherwise permissible hereunder for a limited period of time; and/or (C) that the Grantor limit future increases below amounts otherwise permissible for a limited period of time. If any Rents exceeding the limits hereunder, plus interest thereon, are not refunded promptly upon the City's demand and after the conclusion of any audit requested under the following subparagraph, such amounts may be recovered in an action brought by the City for recovery of such amounts on behalf of tenants (but City shall not be obligated to bring any such action). If the Grantor, notwithstanding a final determination requiring reduction in Rents hereunder, fails to give notice to tenants of such reduction within ten (10) business days, the City may give such notice to tenants directly.

(i) Copy to Tenant. The Grantor shall provide each tenant in the Property with a copy of this Section or a summary, previously submitted to the City, of the rent and occupancy limitations herein, with any modifications requested by the City within twenty (20) business days of receipt by the City.

(j) Tenant Selection. The Grantor shall adopt and apply written tenant selection criteria consistent with all applicable laws and regulations, and with Section 9 below.

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-17 of 33
Record Date:11/30/2022 4:42 PM King County, WA

Section 3. Reporting and Records.

(a) The Grantor will make annual certifications to the City that it is in compliance with this Regulatory Agreement. Such certifications shall be submitted by June 30 of each year and shall include the most current occupancy information, Rent Schedule (showing which Units are City-funded Units in each income class, and which are subsidized under Section 8 or another project-based or tenant-based subsidy program), a calculation justifying any increases in Rents from the previous Rent Schedule, consistent with this Regulatory Agreement, and the actual Rents being charged to each tenant Family in a City-funded Unit. The City shall have the right to review Rents for compliance and approve or disapprove them every year. In the event the Grantor submits annual certifications to satisfy the reporting requirements of multiple funders, the Grantor will designate and report all City-funded Units at the income class required by the most restrictive funder as well the classification for purposes of this Regulatory Agreement. If any federal funds are involved in the City funding of the Project, the Grantor shall also submit certifications of income and Family size obtained in the previous year. The Grantor shall also include with such certification any changes in the management policies for the Property and such other information covering the prior calendar year as the City may request by notice at least ninety (90) days in advance of the due date, and with such accompanying documentation as the City may request.

(b) The Grantor shall provide such additional reports regarding tenants, operations, and Property condition as set forth in the Loan Agreement, whether or not any part of the Loan shall be outstanding. If so requested by the City, the Grantor shall report to the City, at such other times as the City shall request upon reasonable advance notice, on the Rent levels, current income levels of tenants, and management policies for the Property.

(c) The Grantor shall maintain at all times complete and accurate records showing compliance with this Regulatory Agreement for at least the preceding six (6) years.

(d) Reserved.

Section 4. Term; Covenants Run with the Land.

(a) Unless sooner modified or terminated in accordance with Section 6 hereof, this Regulatory Agreement shall continue in full force and effect until June 30, 2080, and thereafter for any period for which the maturity of the Loan, or any part thereof, or of any other indebtedness then secured by the Deed of Trust, shall be extended or shall remain outstanding.

(b) Reserved.

(c) The Grantor hereby declares its express intent that the covenants, restrictions, charges and easements set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Grantor's successors in title including any purchaser, grantee, owner or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner or lessee of any portion of the Property and any other person or entity

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-18 of 33
Record Date:11/30/2022 4:42 PM King County, WA

having any right, title or interest therein. The Grantor shall not transfer the Property or any portion thereof or interest therein to any successor unless successor agrees in writing to be bound by the provisions of this Regulatory Agreement to the same extent as the transferor and the City receives a copy of such agreement prior to the transfer. The execution and delivery of such agreement to the City shall be a condition precedent to the effectiveness of any transfer of any interest in the Property to such successor, but the covenants herein shall be binding on any such transferee regardless of whether such written agreement is obtained. This Regulatory Agreement has priority over the Deed of Trust and shall survive any payment, release, satisfaction or cancellation of the Loan or the Deed of Trust occurring prior to the expiration of the period referred to in the previous subsection. The covenants herein are independent of and in addition to the covenants in the Deed of Trust and Loan Agreement, any other covenants made for the benefit of the City, and any additional loan documents that may be executed between the City and any one or more of the Grantors. No transfer of the Property shall operate to relieve the Grantor or any successor of its obligations hereunder unless expressly so agreed in writing by the City. This Section shall not prohibit any mortgages, deeds of trust, regulatory agreements and covenants for the purposes of the financing contemplated by the Loan Agreement, nor prohibit any transfer upon foreclosure of a deed of trust or mortgage approved by the OH Director, or in lieu of foreclosure thereof, or any subsequent transfer, but any transfer shall be subject to the terms of this Regulatory Agreement.

(d) Reserved.

Section 5. **Remedies; Enforceability**. In the event of a violation by the Grantor or its successors in interest of any of the provisions of this Regulatory Agreement the City may notify the Grantor or its successor in writing of the violation. The Grantor or its successor shall have thirty (30) days from the date of notice to the Grantor to cure such violation. Notwithstanding the foregoing, if the violation is of such a nature that it may not practicably be cured within thirty (30) days, City shall not be entitled to exercise its remedies so long as the Grantor commences cure of such violation within the 30-day period and diligently pursues the cure to completion within ninety (90) days after such notice, or within such other time frame as shall be approved by the City. If the Grantor or its successors does not cure (or, if the preceding sentence applies, commence cure of) the violation within the 30-day period or if the Grantor does not diligently pursue cure pursuant to the preceding sentence, the City may, in its discretion, pursue any and all remedies provided hereunder or available at law or in equity. The Grantor agrees that such remedies shall include, without limitation:

(a) The City may petition a court of competent jurisdiction for the appointment of a receiver, and the City shall be entitled, after notice to the Grantor as provided under appropriate court rules, and without bond, to the appointment by a court of competent jurisdiction of a receiver to assume full management, control and possession of the Property and to exercise all rights available under applicable law (but not including the power to sell or dispose of the Property). If so requested by the City, the receiver may have, in addition to all the rights and powers customarily given to and exercised by a receiver, any or all of the rights and powers granted to the City by the Loan Documents. The Grantor shall cooperate fully in any transfer of management and control to a receiver appointed by a court. The receiver shall remain in control of the Property until any one of the following events:

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-19 of 33
Record Date:11/30/2022 4:42 PM King County, WA

(i) The Property shall be transferred pursuant to a foreclosure sale or deed in lieu of foreclosure;

(ii) The court shall determine, after an evidentiary hearing, that there was no basis for appointment of a receiver hereunder;

(iii) All defaults hereunder and any other Events of Default under the Loan Documents shall have been cured to the reasonable satisfaction of the City (or waived by the City in its sole discretion), all fees and expenses of the City in connection with such defaults and all related proceedings shall have been reimbursed by the Grantor and the court shall be satisfied that the Grantor is ready, willing and able, financially and otherwise, to resume operation of the Property in full compliance with this Regulatory Agreement;

(iv) The court shall transfer control of the Property to a substitute receiver proposed or consented to by the City; or

(v) This Regulatory Agreement shall terminate in accordance with its terms.

The Grantor agrees not to petition the court for transfer of control to the Grantor except for the reasons stated above unless so requested by the City, in which case the Grantor shall join in a petition to reinstate the Grantor's control of the Property.

Neither the receiver nor the City shall be deemed to have assumed any liabilities of the Grantor or any other person relating to the Property, except that the receiver shall be responsible, to the extent permitted by applicable law and the orders of the court, for renting Units in the Property; collecting rents and applying them to Property expenses, including the receiver's reasonable fees and expenses and debt service falling due on any mortgage indebtedness permitted by the Loan Documents or otherwise approved in writing by the City, with any surplus (after reimbursement to the City of any advances made pursuant to the terms hereof and, so long as the Deed of Trust encumbers the Property, after deposits in reserve accounts as required by the Loan Documents) deposited in the registry of court for determination of the persons entitled thereto; and otherwise managing and preserving the Property, but the receiver shall have no liability to the Grantor for any act or omission of the receiver except for gross negligence or willful misconduct.

(b) In addition or in the alternative, the City shall be entitled to specific performance, preliminary and permanent injunctive relief, monetary damages, restitution, and recovery of all costs and attorneys' fees incurred in enforcing this Regulatory Agreement including without limitation the costs of any repairs or other actions reasonably necessary with respect to the Property and the reasonable value of any services provided by City employees in connection therewith.

The rights and remedies specified in this Section are in addition to, and not in substitution for, the City's rights and remedies for excessive Rents under subsection 2(h) above, provided that unless required by federal law or regulations the City shall not seek additional remedies under this Section

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-20 of 33
Record Date:11/30/2022 4:42 PM King County, WA

for charging of excessive Rents unless a determination under such subsection shall have become final and the Grantor shall have failed or refused to comply with the requirements of the City under that Section after thirty (30) days' written notice of such requirements, which notice shall constitute the notice and opportunity to cure required by this Section. No waiver of any breach or violation shall be binding unless in writing signed by the City and no waiver or delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of the City to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times. The Grantor hereby agrees to pay, indemnify and hold the City harmless from any and all costs, expenses and fees, including all reasonable attorneys' fees which may be incurred by the City in enforcing this Regulatory Agreement following any default on the part of the Grantor whether the same shall be enforced by suit or otherwise.

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Section 6. Recordation; Amendments; Termination.

(a) The Grantor shall cause this Regulatory Agreement to be duly recorded in the Office of the King County Recorder as an encumbrance upon the Property prior to the Deed of Trust and shall deliver to the City a copy of this Regulatory Agreement showing recording information.

(b) The provisions hereof shall not be amended or revised except by an instrument in writing duly executed by the City and by the Grantor or its successor in title and duly recorded. This Regulatory Agreement shall not be terminated prior to the expiration of the stated term hereof except by instrument executed by the City and duly recorded. In either case, no such writing shall be binding upon the City unless duly executed by the Mayor or the Director of OH.

Section 7. No Conflict with other Documents. The Grantor represents and warrants that it has not executed and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that the Property is not and will not be subject to any requirements or restrictions in conflict with the provisions hereof.

Section 8. Severability. The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions thereof.

Section 9. Vacancies; Nondiscrimination; Affirmative Marketing; Tenant Selection.

(a) The Grantor shall make good faith efforts to rent all vacant Units. The Grantor shall comply with all applicable fair housing and nondiscrimination laws, ordinances and regulations, including without limitation, SMC Chapter 14.08, as now in effect or hereafter amended. The Grantor further agrees that with respect to City-funded Units it shall not engage in, nor permit, any act or practice that would be prohibited by any such law, regulation or ordinance but for the existence of any present or future exemption therein, or other limit on the effect thereof, that is based on the type of organization, character, mission or beliefs of the Grantor or of any other person or entity acting as or for the lessor or sublessor of a City-funded Unit. The Grantor shall adopt and follow an affirmative marketing policy designed to attract eligible persons from all racial, ethnic, and gender groups in

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-21 of 33
Record Date:11/30/2022 4:42 PM King County, WA

the housing market to available Units, consistent with the City's Affirmative Marketing procedures. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability.

(b) To the extent applicable, if any of the Extremely Low-Income Units are for permanent occupancy, the Grantor shall inform providers of emergency shelters and Transitional Housing about the Property and shall promote access to the Units, when vacant, by Families in such shelters or Transitional Housing that are ready to move into permanent housing. In the case of a Transitional Housing Unit, the Grantor shall inform providers of emergency shelters about the Unit and shall promote access to the Units, when vacant, by Families in such shelters that are ready to move into Transitional Housing. The Grantor shall maintain records of its affirmative marketing efforts and shall include in its annual report to the City, in such detail as the City shall request, information on Affirmative Marketing efforts and the results thereof.

(c) Reserved.

(d) Title II of American Disabilities Act of 1990 as amended ("ADA") and Section 504 of the Rehabilitation Act of 1973, as amended, 29 C.F.R. § 794 ("Section 504") apply generally to protect people with disabilities in programs or activities of the City and it is City policy that recipients of funding for projects under those programs, whether or not receiving federal funds, shall comply with the same requirements. The Grantor agrees that it shall provide all programs, housing, services and activities at or from the Property in full compliance with Title II of the ADA and Section 504, and regulations under those laws, as they would apply to the same programs, services and activities if provided by the City, and the Borrower shall not deny or permit the denial of participation or the benefits of such services, housing, programs or activities on the basis of disability.

Section 10. **Insurance**. The Grantor shall keep or cause to be kept the improvements now existing or hereafter erected on the Property insured, by an insurance company legally entitled to do business in the State of Washington and acceptable to City, against loss by fire and other hazards included within the term "broad form" coverage. If requested by the City, the Grantor shall maintain insurance covering additional hazards against which mortgage lenders customarily require insurance. The Grantor's casualty insurance shall cover one hundred percent (100%) replacement value of the improvements for the entire term of this Regulatory Agreement unless otherwise agreed in writing between the parties. The Grantor shall provide to City evidence satisfactory to the City of compliance with this Section, promptly upon any request by City. In the event of loss, insurance proceeds shall be applied to restoration or repair of damages to the Property, unless the City determines that such restoration or repair would impair the City's security under the Loan Documents or the parties agree that restoration or repair is economically unfeasible. For purposes of this Section and Section 11, impairment of the City's security shall be determined by comparison to the adequacy of the City's security prior to the casualty loss. Provided insurance is maintained as required herein, the Grantor's or its successors' obligation to repair, if repairs are undertaken, shall be limited to and shall not exceed the insurance payments received by the Grantor or its successor from the insurance policy required herein and any additional insurance maintained on the Property, plus any reserves maintained with respect to the Property. The provisions of this Section 10 regarding the use and disposition of

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-22 of 33
Record Date:11/30/2022 4:42 PM King County, WA

insurance proceeds shall be subject to the rights of any third parties as set forth in any Exception (as defined in the Deed of Trust) having priority over this Regulatory Agreement (unless otherwise agreed by such third parties), and to any contrary provisions of any Subordination Agreement or Priority Agreement with respect to the Property signed by the City.

Section 11. **Involuntary Loss.** In the event of loss or damage to the Property the Grantor shall give prompt notice to the City. Subject to the limitation on the Grantor's obligation pursuant to the preceding Section, the Grantor shall promptly restore or repair the damages to the Property, in order to assure compliance with this Regulatory Agreement, unless City determines in writing that the City's security under the Loan Documents would be impaired by use of available insurance proceeds and any other resources provided by the Grantor for such restoration or the parties agree that repair or restoration is not economically feasible.

Section 12. **Maintenance of Property.** The Grantor shall: (a) at all times on and after the Commencement Date maintain the Property in good and tenantable condition and repair; (b) neither commit nor suffer waste; and (c) promptly comply with all applicable laws, codes and regulations applicable to the Property and the requirements of all federal, state and local authorities and pay all fees and charges in connection therewith. The Grantor shall not cause or permit any conditions that would constitute a nuisance. The Grantor shall ensure that the portions of any condominium not subject to this Regulatory Agreement are maintained, used and operated in a manner that complies with applicable law and affords reasonable and safe access to the City-funded Units, and does not impair the use, enjoyment, or security of the City-funded Units. Should the Grantor fail to comply with any of the requirements of this section, then within thirty (30) days after notice to the Grantor of a violation thereof the Grantor shall have prepared, in consultation with the City, a plan reasonably acceptable to the City to remedy the violation as promptly as feasible, and the Grantor shall diligently pursue such plan to completion within the time period specified therein. If the Grantor fails to develop or to implement such a plan in a timely manner or if the City determines in its discretion that an emergency exists that makes it necessary in order to protect the tenants of the Property, the City may, but shall not be obligated to, make the repairs or pay the costs to cure any non-compliance with this section and recover from the Grantor as damages any costs incurred by the City.

Section 13. **Grant of Easement.** The Grantor hereby irrevocably grants an easement in gross to the City and its agents and employees, for the duration of this Regulatory Agreement, subject to the rights of residential tenants under applicable laws and ordinances, to enter the Property at any time when the City determines in its good faith discretion that an emergency makes such entry necessary for the protection of any tenants or the public, and to enter the Property at any other time on three (3) days' notice in advance to the Grantor or the Grantor's agent, for any of the following purposes:

(a) to inspect the condition of the Property and determine compliance with the covenants hereof;

(b) to interview tenants and verify income information, occupancy levels and any other matters relevant to this Regulatory Agreement;

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-23 of 33
Record Date:11/30/2022 4:42 PM King County, WA

(c) to inspect and copy any documents maintained by the Grantor or its agent relevant to this Regulatory Agreement; or

(d) in the event of default hereunder, not cured within any applicable cure period, to perform repairs as provided herein or take any other action permitted hereunder.

Section 14. Leases; Fees.

(a) The Grantor shall rent City-funded Units only pursuant to a form lease or rental agreement prepared by the Grantor. The Grantor shall provide a copy of the form of lease currently in use to the City promptly upon any request by the City. The form lease or rental agreement shall: (a) comply with all applicable laws; (b) not include any provisions prohibited by applicable laws or regulations; (c) prohibit subletting or assignment of the lease without the express written approval of the Grantor, which approval shall not be granted by the Grantor if the result would be any violation of the rent or occupancy restrictions herein; and (d) state that information about the limitations on Rents and Rent increases pursuant to this Regulatory Agreement is available from OH.

(b) Reserved.

(c) Tenants shall not be charged fees that are not customarily charged in rental housing such as laundry room access fees, and other fees. The Borrower may charge reasonable application fees to prospective tenants and may charge parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood. The Borrower may charge fees for services such as bus transportation or meals, as long as such services are voluntary.

Section 15. Management and Management Agent. Subject to the requirements of this Regulatory Agreement and applicable law, the Grantor shall operate the Property, or cause the Property to be operated, in accordance with the management plan as approved by the City pursuant to the Loan Agreement. The Grantor shall not engage a Management Agent for the Property, amend (including renew) or terminate an agreement with an existing Management Agent, without the City's prior consent to the agent and the agent's compensation, provided that a Management Agreement that has an automatic extension unless otherwise terminated and has been approved by the City shall be deemed to have been consented to by the City with respect to any such extensions. If the City does not object in writing within ten (10) days after written notice to the City of the identity of any Management Agent and the terms of the proposed agreement or renewal with a term not to exceed one (1) year, together with any information as to the background or experience of the Management Agent as the City may request, the City shall be deemed to have consented to the new Management Agent and/or the terms of the new or renewed agreement.

Section 16. No Assumption of Obligations by City. Nothing in this Regulatory Agreement shall be construed to impose on the City any obligation or liability not expressly provided herein. This Regulatory Agreement is not intended to create any duties on the part of the City to any tenant or occupant of the Property, nor to confer on any tenant or occupant of the Property or any other person any right or claim against the City or its agents or employees in the event of any action or failure to act by the City hereunder.

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-24 of 33
Record Date:11/30/2022 4:42 PM King County, WA

Section 17. **Notices.** All notices to be given pursuant to this Regulatory Agreement shall be in writing and shall be deemed given when hand-delivered within normal business hours, when actually received by facsimile transmission during business hours, or two (2) business days after mailed, postage prepaid, to the parties hereto at the addresses set forth below, or to such other place as a party (or the Investor, if applicable) may from time to time designate in writing.

GRANTOR:
Victory Northgate LLLP
c/o GMD Development LLC
520 Pike Street, Suite 1010
Seattle, Washington 98101
Phone: (206) 684-0721
Attention: Attn: Gregory Dunfield

CITY:
City of Seattle
Office of Housing
700 Fifth Avenue, Suite 5700
Post Office Box 94725
Seattle, Washington 98124-4725
Attention: Director

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Any notice to the Borrower in accordance with this Section shall be sufficient notice to any other Grantor.

Section 18. **Reserved.**

Section 19. **Project Evaluation.** Grantor agrees to participate in any evaluation or study commissioned by OH, any other public or private funder (as may be reasonably requested). If Grantor participates in any other evaluation or study, Grantor agrees to submit copies of such evaluation or study to OH within five (5) business days of Grantor's receipt of such evaluation or study. OH may reasonably request follow-up evaluation or study data and Grantor shall submit such data during or following any evaluation or study.

Section 20. **Governing Law; Venue.** This Regulatory Agreement shall be governed by the laws of the State of Washington. The Grantor, for itself and its successors and assigns, consents to the jurisdiction of the courts of the State of Washington and to venue of any proceedings hereunder in King County, Washington.

Section 21. **Time.** Time is of the essence of the Grantor's obligations hereunder.

Section 22. **Obligations of Borrower and co-Grantor(s).** So long as Borrower is owner of the Property, Borrower agrees that Borrower shall discharge all obligations placed upon Grantor hereunder, and shall hold Sponsor and GP harmless from any liability hereunder. The foregoing

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-25 of 33
Record Date:11/30/2022 4:42 PM King County, WA

notwithstanding, Borrower and all other persons named as Grantor herein, and their respective interests in the Property and respective successors and assigns, are bound hereby jointly and severally, and the City shall have the right to enforce any provision hereof against any or all of such parties and interests. Sponsor and GP each agree that this Regulatory Agreement shall be binding upon any interest in the Property now held or hereafter acquired by Sponsor or GP, and upon Sponsor or GP as the holder of any such interest.

[Signatures begin on following page]

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-26 of 33
Record Date:11/30/2022 4:42 PM King County, WA

IN WITNESS HEREOF, the parties have caused this Regulatory Agreement to be signed by their respective, duly authorized representatives, as of the day and year first written above.

GRANTORS:

VICTORY NORTHGATE LLLP,
a Washington limited liability limited partnership

By: Victory Northgate GMD LLC, a Washington limited liability company,
its Managing General Partner

By: GMD Development LLC, a Washington limited liability company,
its Sole Member and Manager

By: _____
Gregory M. Dunfield, Manager

VICTORY NORTHGATE GMD LLC,
a Washington limited liability company

By: GMD Development LLC, a Washington limited liability company,
its Sole Member and Manager

By: _____
Gregory M. Dunfield, Manager

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-27 of 33
Record Date:11/30/2022 4:42 PM King County, WA

GRANTORS (cont.):

AOF VICTORY NORTHGATE LLC,
a Washington limited liability company

By: AOF/Pacific Affordable Housing Corp., a California nonprofit public benefit corporation, its Sole Member and Manager

By: _____
Sara Fay, Senior Vice President

GMD DEVELOPMENT LLC,
a Washington limited liability company

By: _____
Gregory M. Dunfield, Manager

The City accepts this Regulatory Agreement as of the day and year first above written.

THE CITY OF SEATTLE,
a Washington municipal corporation

By: _____
Laurie Olson, Capital Investments Manager
Office of Housing

Unofficial Copy

Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-28 of 33
Record Date:11/30/2022 4:42 PM King County, WA

GRANTORS (cont.):

AOF VICTORY NORTHGATE LLC,
a Washington limited liability company

By: AOF/Pacific Affordable Housing Corp., a California nonprofit public benefit corporation, its Sole Member and Manager

By: _____
Sara Fay, Senior Vice President

GMD DEVELOPMENT LLC,
a Washington limited liability company

By: _____
Gregory M. Dunfield, Manager

The City accepts this Regulatory Agreement as of the day and year first above written.

THE CITY OF SEATTLE,
a Washington municipal corporation

By: _____
Laurie Olson, Capital Investments Manager
Office of Housing

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-29 of 33
Record Date:11/30/2022 4:42 PM King County, WA

BORROWER ACKNOWLEDGMENT

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Gregory M. Dunfield is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of GMD Development LLC, a Washington limited liability company, the sole member and manager of Victory Northgate GMD LLC a Washington limited liability company, the managing general partner of **VICTORY NORTHGATE LLLP**, a Washington limited liability limited partnership, to be the free and voluntary act such party for the uses and purposes mentioned in the instrument.

Dated this 28th day of November, 2022.

NOTARY PUBLIC in and for the State of Washington residing at Seattle WA
My commission expires: 1-11-2026
PRINT NAME: Mila Adams

MILA ADAMS
NOTARY PUBLIC
EXPIRES
1-11-2026
STATE OF WASHINGTON
COMMISSION NUMBER 22005033

Use this space for Notary Seal/Stamp

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-30 of 33
Record Date:11/30/2022 4:42 PM King County, WA

GP#1 ACKNOWLEDGMENT

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Gregory M. Dunfield is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of GMD Development LLC, a Washington limited liability company, the sole member and manager of **VICTORY NORTHGATE GMD LLC**, a Washington limited liability company, to be the free and voluntary act such party for the uses and purposes mentioned in the instrument.

Dated this 29th day of November, 2022.

NOTARY PUBLIC in and for the State of Washington residing at Seattle WA
My commission expires: 1-11-2026
PRINT NAME: Mila Adams

MILA ADAMS
NOTARY PUBLIC
EXPIRES
1-11-2026
STATE OF WASHINGTON
COMMISSION NUMBER 22005033

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-31 of 33
Record Date:11/30/2022 4:42 PM King County, WA

GP#2 ACKNOWLEDGMENT

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Sara Fay is the person who appeared before me and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Senior Vice President of AOF/Pacific Affordable Housing Corp., a California nonprofit public benefit corporation, the sole member and manager of **AOF VICTORY NORTHGATE LLC**, a Washington limited liability company, to be the free and voluntary act such party for the uses and purposes mentioned in the instrument.

Dated this 28th day of November, 2022.

NOTARY PUBLIC in and for the State of Washington residing at Seattle WA
My commission expires: 1-11-2026
PRINT NAME: Mila Adams

MILA ADAMS
NOTARY PUBLIC
EXPIRES
1-11-2026
STATE OF WASHINGTON
COMMISSION NUMBER 22005033

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-32 of 33
Record Date:11/30/2022 4:42 PM King County, WA

SPONSOR ACKNOWLEDGMENT

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Gregory M. Dunfield is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of **GMD DEVELOPMENT LLC**, a Washington limited liability company, to be the free and voluntary act such party for the uses and purposes mentioned in the instrument.

Dated this 28th day of November, 2022.

NOTARY PUBLIC in and for the State of Washington residing at Seattle WA
My commission expires: 1-11-2026
PRINT NAME: Mila Adams

MILA ADAMS
NOTARY PUBLIC
EXPIRES
1-11-2026
STATE OF WASHINGTON
COMMISSION NUMBER 22005033

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Instrument Number: 20221130000974 Document:AG Rec: $235.50 Page-33 of 33
Record Date:11/30/2022 4:42 PM King County, WA

CITY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 29 day of November, 2022, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Laurie Olson, to me known (or proved by satisfactory evidence) to be the Capital Investments Manager of the Office of Housing of **THE CITY OF SEATTLE**, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the purposes therein mentioned, and on oath stated that s/he was authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Paula J Wolfe
NOTARY PUBLIC in and for the State of Washington residing at King Cty
My commission expires: 8/15/2026
PRINT NAME: Paula J Wolfe

PAULA J. WOLFE
COMMISSION EXPIRES
NOTARY
No. 76423
PUBLIC
AUGUST 15, 2026
STATE OF WASHINGTON

Use this space for Notary Seal/Stamp

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FINDINGS AND RECOMMENDATION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of Application of

ANDREW KLUESS, CARON ARCHITECTURE,

For a Rezone of Property at
1000 and 1020 NE Northgate Way.

Hearing Examiner Files:
CF 314513-LU

Department References:
3039050-LU

FINDINGS OF FACT

1. Introduction. Request for a contract rezone from one Neighborhood Commercial designation to another, NC3-55' (M) to NC3-65' (M1) at 1000 and 1020 NE Northgate Way, in the Northgate Overlay District and Urban Center. The project includes construction of a 7-story, 184-unit apartment building with retail and parking for 88 vehicles, on a 40,285 square foot site.

2. Hearing. A properly noticed public hearing[1] was held remotely and in person August 14, 2023. The Seattle Department of Construction and Inspections ("Department"), through David Landry, AICP, described the proposal. The Applicant, represented by Abigail Pearl DeWeese, Hillis Clark Martin & Peterson P.S., introduced the project and called two witnesses. Emily Thompson, of GMD Development LLC, provided project background and described the public funding aspect. Aaron Blaha, of Axis/GFA, the architecture firm which designed the project, provided detail on project design and fit with the surrounding area. No member of the public indicated a wish to testify, but in case anyone had technical difficulty connecting, the record was kept open through day end. No public comment was received.

3. Exhibits. The Department submitted Exhibits 1-27. The Applicant submitted three exhibits (Exhibits 28-30), with an updated version of Exhibit 28 submitted after the hearing. All exhibits were admitted without objection. No written public comment was submitted to the Examiner.

4. Site Visit. The Examiner visited the site on August 24, 2023. The visit provides context, but is not evidence.

5. Site and Area. The site contains a restaurant (Patty's Eggnest), an auto related use (Jiffy Lube), and accessory parking. The site is surrounded on four sides by NC3-55(M) zoning, with some LR2(M) zoning to the south. The area includes residential and commercial development ranging in height from one to two stories for older development, with newer development being five stories. Immediately north is a QFC grocery, which shares an access easement with the project site, with a Roosevelt Way NE curb cut providing access to both properties. Roosevelt Way NE is

[1] Exhibit 26; SMC 23.76.052(C). No concerns on notice were raised.

a Special Landscape Arterial (SMC 23.71.012). It has sidewalks and a bus stop at the corner of NE Northgate Way near the access easement shared with QFC.

North of the QFC is the recently completed Noren Pinehurst Townhouses and Live Work Units. A gas/service station and mini mart is at NE Northgate Way/Roosevelt Way NE's southeast corner, with Walgreens on the southwest corner and commercial uses further west. Roosevelt Way NE's west side houses the Northgate Village Shopping area which includes a TJ Maxx department store and other retail establishments amidst surface parking. To the east is a bio-retention pond and beyond the pond is Victory Creek Park, along 12th Ave NE's west side. The area also includes Hubbard Homestead Park, Northgate North shopping center, and Northgate Mall.

6. Written Comments. Public review was afforded through the Early Design Guidance Meeting and environmental review. The Department reviewed and conditionally approved the Design Review Board recommendation, finding it consistent with the Design Review Guidelines. The Department also reviewed the project through the State Environmental Policy Act, Ch. 43.21C, identifying conditions and finding the proposal does not have significant environmental impacts. These decisions were not appealed. The Department Recommendation addressed comments received, which are included in the exhibits.[2] Several comments supported the added housing; others did not. Several comments identified parking adequacy concerns while others appreciated the 88 spaces provided. No public comments were submitted directly to the Examiner.

7. Project Details. The rezone is coupled with a specific development project. The below image is not to scale, but provides an illustration:[3]

VIEW FROM SOUTHWEST

[2] Exhibit 25 (Staff Report), pp. 506-507 of PDF or 505-506 of paper; Exhibits 9b and10b.
[3] Exhibit 28 (Applicant Power Point), p. 13, *see also* pp. 12 and 14-17, for pictures from varying perspectives.

8. Department Review. The Department recommended approval with conditions. The three proposed rezone conditions ensure development is constructed as proposed. Five conditions address the design review and the two SEPA conditions on construction management and trees are recommended subject to Council review. The attachment at the end of this Recommendation lists all conditions. The Department Recommendation includes considerable detail on the rezone criteria and is incorporated as supplemental findings.[4]

CONCLUSIONS OF LAW

1. Jurisdiction. The Hearing Examiner has jurisdiction to issue a recommendation on the rezone, while the Council makes the final decision.[5]

2. Criteria, Summary. Criteria for assessing a site-specific rezone request are at SMC 23.34.004 (contract rezones), 23.34.006 (MHA suffixes), 23.34.007 (rezone evaluation), 23.34.008 (rezone criteria), 23.34.009 (height limits), and 23.34.078 (NC3 zones). Despite the considerable level of often overlapping criteria, the key consideration is zoning compatibility with the land use planning for the area.

3. Contract Rezone. As this is a contract rezone, a Property Use and Development Agreement or PUDA will be executed and recorded.[6] The code details payment and performance requirements.[7] The PUDA should include conditions requiring property development to substantially conform with the approved plans for Master Use Permit #3039050-LU.

4. "M" Suffix: Mandatory Housing Affordability, SMC 23.34.006. With the proposed zoning, the site is subject to MHA requirements at SMC 23.58B and/or 23.58C. The existing zoning contains an "M" suffix and the site should have an "M" suffix under the proposed zoning.[8] As zoned capacity would increase (Category 3 to 4) an updated M1 suffix should apply.[9] The development is for 100% affordable, so exceeds MHA requirements.

5. Rezone Evaluation, SMC 23.34.007. Applicable sections of Ch. 23.34 SMC on rezones are weighed and balanced together to determine the most appropriate zone and height designation.[10] Zone function statements are used "to assess the likelihood that the area proposed to be rezoned would function as intended."[11] "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...."[12] The most appropriate zone designation is the one "for which

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[4] Exhibit 25.
[5] SMC 23.76.004(C); SMC 23.76.004, Table A.
[6] SMC 23.34.004.
[7] *See e.g.*, Ch. 23.58B and .58C SMC.
[8] SMC 23.34.006.
[9] Director's Rule 14-2016.
[10] SMC 23.34.007.
[11] SMC 23.34.007(A).
[12] SMC 23.34.007(B).

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."[13]

6. Match Between Zone Criteria and Area Characteristics, SMC 23.34.008(A) and (B). The proposal follows Comprehensive Plan growth targets and is a good fit within the area. The project is within the Northgate Urban Center, which has a 3,000 housing unit growth target to achieve between 2015 and 2035 with a 11 housing unit per acre overall density. A 2021 evaluation found the Northgate Urban Center had only achieved 7.9% of this residential growth target. The rezone will increase zoned capacity and will help with achieving housing objectives for the area.

The NC3 designation meets functional and locational criteria. The project supports a pedestrian-oriented shopping district that services the surrounding neighborhood and larger community and incorporates businesses and residences compatible with the area's retail character. The project promotes pedestrian activity with transit to access. The site is separated from lower density residential areas by physical edges and less-intense commercial areas.

7. Neighborhood Plan/Precedential Effect, SMC 23.34.008(C) and (D). The site is within the Northgate Neighborhood Plan, which provides for concentrated development supported by transit, which is surrounded by health single-family neighborhoods.

- NG-G2: A thriving, vital, mixed-use center of concentrated development surrounded by healthy neighborhood residential areas transformed from an underutilized, auto oriented office/retail area.

- NG-P.8.5 (Support future potential rezones to higher-intensity designations in the North Core Subarea. In considering such rezones, pay particular attention to the development of an environment that creates a network of pedestrian connections and that encourages pedestrian activity, among other considerations associated with a rezone review) [14]

The rezone furthers mixed use vitality by providing affordable high-density housing supported by transit, including the Northgate transit center which is a 10-15 minute walk away. The rezone would not adversely affect the nearby Neighborhood Residential or Lowrise zones. The less intensive residential zones are physically separated from the NC3 zoning by natural physical buffers and right-of-way. Also, the zoning itself is not changing, only the height limit, and that is by ten feet.[15]

8. Zoning Principles, SMC 23.34.008(E). The site is separated from the NR zone to the east by the existing bioretention pond, Victory Creek Park and Thornton Creek, and 12th Ave NE which runs in a north-south direction. The site is separated from the LR2 zone to the south by NE Northgate Way, a major arterial with sidewalks, planting strips, and a 73-76 foot right-of-way width.

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[13] SMC 23.34.008(B).
[14] *See also* NG-G3, NG-G4, NG-P6, NG-P7, NG-G7.
[15] *See also* Conclusion 10.

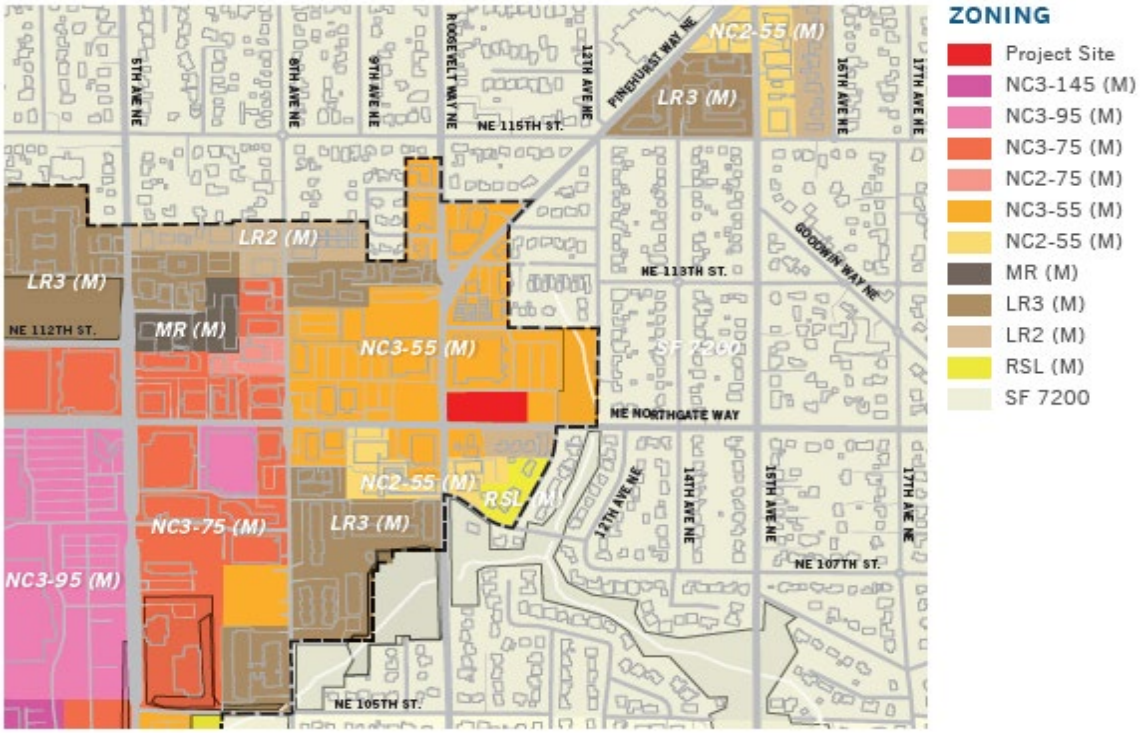
9. Impact Evaluation, SMC 23.34.008(F). The rezone meets the compatibility standards for the surrounding neighborhood and scale. Housing capacity is increased and the project will be adequately supported by public services and infrastructure, including pedestrian amenities and sidewalks. There is adequate street access, street capacity, transit, utility, and sewer capacity. Some comments raised concerns about parking adequacy while other comments appreciated the spaces provided. The project improves area aesthetics and environmental conditions. It positively contributes to the need for housing and low-income housing. 31 of the 184 new affordable transit-oriented housing units are possible due to the increased building height. No market-rate housing is provided. The project does remove Jiffy Lube's 3,488 square feet and Patty's Egg Nest's 3,609 square feet of commercial space. To help offset the lost employment, the project is providing 6,770 square feet of commercial space.

10. Changed Circumstances, SMC 23.34.008(G). Changed circumstances are considered though they need not be demonstrated. The area has seen increasing density and heights. For example, a 2022 rezone on two parcels immediately south upzoned a development site from LR3(M) to MR(M1), with an 80-foot height limit. With the 2019 city-wide rezone, the site's height limit went from 40 to 55. Also in 2019, Northgate Mall redevelopment was approved. A network of new street and pedestrian corridors breaks up the site's superblock scale, while providing access to new and existing buildings. A half mile to the west is the Northgate Link Light Rail, with the station and its alignment approved by Council in 2013. And, to address affordable housing challenges, the City adopted mandatory housing affordability legislation in 2015 and 2016. The rezone's allowance for increased pedestrian friendly housing is in keeping with these changes.

11. Overlay Districts and Critical Areas, SMC 23.34.008(H) and (I). The site is within the Comprehensive Plan's Northgate Urban Center and Northgate Overlay District. These designations aim to create a pedestrian friendly area supportive of commercial development, protect the residential neighborhood character, and support Northgate as a regional transportation hub. The project, with its added affordable housing, improved pedestrian environment, and supporting commercial development is consistent. A portion of the site's far east side was potentially identified as including wetland buffering for an off-site QFC bioretention pond. It is not a critical area and not connected with the proposal, as peer reviewed analysis confirmed.

12. Heights, SMC 23.34.009. The proposal is for a ten-foot increase. The height is consistent with NC3 zone function, which supports a pedestrian oriented shopping district and residences compatible with the area's retail character. The limited increase follows area topography and will have limited view impacts. The rezone and project include buffers coupled with height and scale transitions. The increase is compatible with the surrounding area and with Northgate Area Comprehensive Plan, and Northgate Urban Center and Overlay District. The below diagram depicts area heights.[16]

[16] Exhibit 28 (Power Point), p. 4; Exhibit 25 (Staff Report), p. 523 of PDF and 519 of paper (different diagram, similar information).



13. NC3 Designations, SMC 23.34.078. The site and project are well suited to the NC3 zoning criteria; it is already zoned NC3, as are most of the immediately surrounding properties. The zoning, with the added ten-feet in height, better supports housing affordability and pedestrian-oriented housing and commercial uses. With the improved pedestrian access, increase in affordable housing, and the area's supporting services and infrastructure, including transit service, the requested NC3-65 zoning fits within the neighborhood context.[17]

14. Conclusion. Weighing and balancing Ch. 23.34 SMC criteria together, the most appropriate zone designation for the site is NC3-65(M1) (Neighborhood Commercial-3), with a PUDA. With the proposal's pedestrian and commercial focus, additional housing, and design considerations, this zoning would better fulfill Comprehensive Plan objectives for the area.

RECOMMENDATION

The Hearing Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA, with the Department's recommended conditions, Attachment 1.

Entered August 24, 2023.

.

Susan Drummond, Deputy Hearing Examiner

[17] *See* Conclusion 6.

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.

Under SMC 23.76.054, a person who submitted comment to the Department or 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 Zoning, c/o Seattle City Clerk
Physical Address: 600 Fourth Avenue, Floor 3, Seattle, WA 98104
Mailing Address: P.O. Box 94728, Seattle, WA 98124-4728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Review code language for exact language and requirements, which are only summarily described above. Consult the City Council committee named above for further information on the Council review process.

Attachment 1
Conditions

DEPARTMENT IMPOSED CONDITIONS – DESIGN REVIEW

Prior to MUP Permit Issuance

1. Add greater transparency to the west facing lobby wall located just to the north of the vestibule.

2. Create seating nodes along NE Northgate Way by forming a more 'L' shape seating configuration with some seating facing the front entry interspersed with other site features such as bollards, planters, or trash containers to break up the long expanse of bench seating into smaller seating nodes.

3. Modify the large building sign on the west building façade to be of a scale that is consistent with the scale and character of the area.

Prior to Certificate of Occupancy

4. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner.

For the Life of the Project

5. 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.

RECOMMENDED CONDITIONS – REZONE, FOR PUDA INCLUSION

Prior to Issuance of a Master Use Permit

6. The rezone includes a Mandatory Housing Affordability designation of M1.

7. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58B and/or 23.58C.

Prior to Issuance of a Building Permit

8. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3039050-LU.

RECOMMENDED CONDITIONS – SEPA

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

9. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website.

10. The plans shall show the tree preservation plan, consistent with the arborist report on file with SDCI, prepared by Tree Solutions, dated February 25, 2022.

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

In the matter of the Petition:	)	Clerk File 314513
Application of ANDREW KLUESS, CARON ARCHITECTURE for a contract rezone of property at 1000 and 1020 NE Northgate Way from Neighborhood Commercial 3 with a 55-foot height limit and M Mandatory Housing Affordability suffix (NC3-55 (M)) to Neighborhood Commercial 3 with a 65-foot height limit and M1 Mandatory Housing Affordability suffix (NC3-65 (M1)) (Project No. 3039050-LU; Type IV).	)	FINDINGS, CONCLUSIONS, AND DECISION

DRAFT

Introduction

This matter involves a petition by Andrew Kluess, Caron Architecture ("Applicant") for a contract rezone property at 1000 and 1020 NE Northgate Way from Neighborhood Commercial 3 with a 55-foot height limit and M Mandatory Housing Affordability suffix (NC3-55 (M)) to Neighborhood Commercial 3 with a 65-foot height limit and M1 Mandatory Housing Affordability suffix (NC3-65 (M1)).

The proposal site is approximately 40,285 square feet in size and is located in the Northgate Urban Center. The application includes a Master Use Permit to redevelop the site with a mixed-use building with 184 affordable apartment units and approximately 6,770 square feet of ground floor retail space fronting on NE Northgate Way. The Applicant intends to satisfy MHA program requirements through on-site performance. Attachment A shows the area to be rezoned.

On July 6, 2023, the Seattle Department of Construction and Inspections (SDCI) issued a recommendation to approve the application with conditions. On August 14, 2023, the Deputy

Hearing Examiner held an open-record public hearing on the proposed rezone. On August 24, 2023, the Deputy Hearing Examiner recommended conditional approval. On October 20, 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 Findings and Recommendation of the Hearing Examiner dated August 24, 2023.

Conclusions

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Findings and Recommendation of the Hearing Examiner dated August 24, 2023.

Decision

The Council hereby **GRANTS** a rezone of the property from NC3-55 (M) to 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 certain conditions for the life of the project. Those conditions are adopted by the Council as follows:

CONDITIONS

Prior to Issuance of a Master Use Permit

1. The rezone includes a Mandatory Housing Affordability designation of M1.
2. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C.

Prior to Issuance of a Building Permit

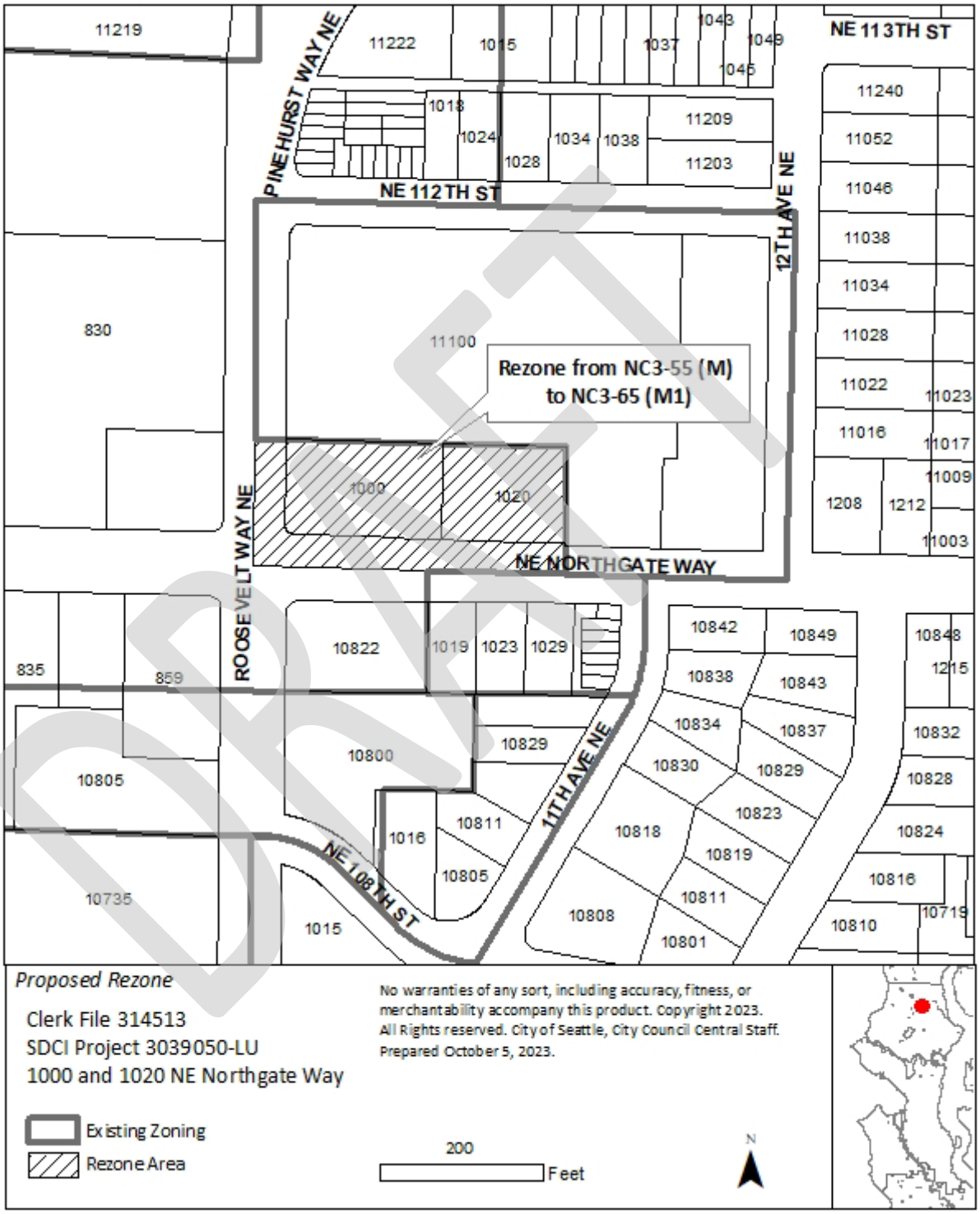
3. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3039050-LU.

Dated this _____ day of _____, 2023.

_____
City Council President

DRAFT

ATTACHMENT A



Legislation Text

File #: CF 314474, **Version:** 1

Application of Acer House, LLC for a contract rezone of a 19,343 square foot site located at 701 23rd Avenue from Neighborhood Commercial 1-40 with an MHA suffix (NC1-40 (M)) and partially with an MHA 2 suffix (NC1-40 (M2)) to Neighborhood Commercial 1-55 (NC1-55 (M) and NC1-55 (M2)) (Project No. 3037717-EG; Type IV).

The Rezone Material is provided as an attachment.

ACER HOUSE LLC

MIMAR STUDIO
PLANNING & DESIGN

schemata
workshop

701 23RD AVE | SEATTLE, WA 98122

SDCI No: 3037717-EG

EARLY DESIGN GUIDANCE | APRIL XX, 2021

Acer
HOUSE

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table of contents

development objectives 2
who we are
- development team 3
- design team 4

context + site analysis 5
priority design guidelines 18
architectural massing concepts 21
- concept comparison 22
- concept 1 23
- concept 2 27
- concept 3 31
- preferred massing development 36

departures 43

applicant team

owner
Acer House LLC
1112 Federal Avenue East | Seattle, WA 98102 | 206.565.6455
Benjamin Maritz | ben@grtexp.co

architect
Schemata Workshop
1720 12th Avenue | Seattle, WA 98122 | 206.285.1589
Grace Kim | grace@schemataworkshop.com

design consultant
Mimar Studio
511 30th Avenue | Seattle, WA 98122 | 206.818.9939
Donald King | donald@mimarpacific.com

landscape architect
Nakano Associates
853 Hiawatha Place South | Seattle, WA 98144 | 206.292.9392
Ida Otteson | io@nakanoassociates.com

project description

Five-and-a-half-story 120-unit mixed-use multi-family development within the 23rd & Union-Jackson Residential Urban Village in the Central Area of Seattle, WA.

project information

address	701 23rd Ave, Seattle, WA 98122
parcel #s	9126101685, 9126101681, 9126101695, 9126101706, 9126101705, 9126101725, 9126101730
existing zoning	NC1-40
proposed zoning	NC1-55
site area	19,343 sf
urban village	23rd & Union-Jackson (Residential Urban Village)
overlay district	none
pedestrian zone	none
frequent transit	yes
parking	none

development objectives

Acer House is a mixed use development designed from the beginning to be a role model of inclusive, sustainable affordable housing. It is located at 23rd and Cherry, a very prominent corner in the Seattle's diverse Central Area. The development team is committed to five principles:

1. **Affordable housing.** Full participation in MHA and MFTE to ensure 30% units are reserved for low income residents. Mix of efficient (~400sf) units and larger family units
2. **Community-focused amenities.** Multi-classroom childcare facility focusing on low-income families, from toddler to pre-school. A culturally appropriate restaurant space and micro-retail spaces, with priority given to current tenants (flower shop, barber shop, hair salon, Somali restaurant)
3. **Sustainability.** Transit oriented development (no parking). Compliance with stringent 2018 Energy Code, and further sustainability improvements as budget allows
4. **Anti-racist development.** Company policy of including one BIPOC/MWBE owned firm in each final procurement round, with the objective of assembling the best and most diverse project team in Seattle. Partnership with a Black-owned development firm to act as "co-developer" to build capacity and further ensure diversity. Celebrating the history of the Central Area in design inspiration
5. **Broad-based wealth creation.** All current property owners are participating in the equity of the development project. Community development fund for 10-20% of needed capital to come from individual investors with roots in the neighborhood

design theme

The design team has proposed an Afrofuturist design theme for this project. Afrofuturism is a Afrocentric cultural aesthetic, a philosophy of science and a philosophy of history that explores the developing intersection of African diásporic culture with technology. It is a global design movement that represents a forecast of a future for Black people while acknowledging the experiences of their past. Although a popular design force in music, fashion, graphics and film, it has not been broadly promoted in architecture.

community outreach comments

The comments below have been collected from a series of emails with 22nd Ave neighbors and from a meeting with the Central Area LURC. Community members...

... want a design that maintains "eyes on the street" to address persistent crime and safety issues at the intersection.
... are concerned about lack of parking in the proposed area.
... want retail program that addresses community needs, specifically preservation of retail spaces for existing tenants (flower shop) and community oriented businesses such a childcare.
... are supportive of greater density, especially for affordable housing.

our company: acer house, llc

Acer House LLC is a single purpose entity formed to develop affordable housing at 23rd and Cherry in Seattle. It is backed by Arboreal Apartments, a joint venture between Ben Maritz and Dave Sharkey.

Arboreal Apartments is an affordable housing developer which is focused on providing homes for households earning between 60% and 90% of Area Median Income. Arboreal uses private investor capital to sponsor projects that both meet market return requirements and also provide significant community benefits such as quality affordable homes, community oriented amenities, sustainable construction practices, and attractive urbanist design. The principals of Arboreal have 25 years experience developing housing in the Central Area of Seattle and a strong commitment to the community.

our values

Our tenants are our partners. We never forget that they wake up every day, go to work, and give us a third of their earnings in rent. We always treat them with dignity and respect.

Our investors are our clients. We cannot succeed without an engaged, excited network of investors who love to work with us. We will always deliver on our commitments, and deliver the best possible experience for our investors.

Diversity is a requirement. We cannot succeed unless our company and our key vendors are as diverse as the communities in which we work. We are aware of the way that Real Estate has contributed to inequity in the past and create opportunities for those who would otherwise not have them.

We are paving the way for others. What we do is hard, and we want to make it easier for others in the future. We embrace new technology, highlight our results, and help others build capacity.

We are humble. Data is our guide. We follow the facts, challenge our assumptions, and love it when there's a better way.

our people

Ben Maritz
Partner

Dave Sharkey
Partner

Christopher Lawler
Developer

Summit Apartments | Seattle, WA

Summit Apartments | Seattle, WA

Terry Apartments | Seattle, WA

Betula Apartments | Seattle, WA

our firm: schemata workshop

Schemata Workshop, founded in 2004, provides high quality, socially responsible, and sustainable architectural and plannning services to public and private clients around the Puget Sound region.
Our staff of thirteen forms a diverse workforce that reflects the communities we serve. We are a close-knit, collaborative, and highly-skilled team who are deeply devoted to community-based building.

Schemata Workshop has a passion for affordable housing and believes that housing is a basic human right. Children must have stable housing in order to excel in school, adults must have a place to call home in order to maintain a sense of dignity and steady employment, and seniors must have a safe home in a supportive environment to maintain their health and contribute to their communities. Over the past 15 years, we have designed over 1,300 affordable homes for and with communities across Western Washington.

We have a strong collaborative relationship with Donald King, of Mimar Studio, built on our shared values and desire to serve the community through design. In his over 50 year career, Donald has completed over 350 successful projects, including over two-dozen in Seattle's Central District.

our values

Our approach to design is rooted in our values: social equity, sustainability, accessibility, community health, and livability. Schemata Workshop is a registered Minority/Women Business Enterprise (MWBE) in the state of Washington. Schemata Workshop maintains our JUST label from the International Living Futures Institute: a "nutritional label" for companies that value transparency and social equity. Schemata Workshop is a recipient of the Minority Small Business of the Year Award from King County Executive for leadership in business transparency and social equity.

our people

Grace Kim, FAIA
Principal in Charge

Donald King, FAIA
Design Consultant

Sarah Haase, AIA
Project Manager /
Project Architect

Rosemarie Gregoire
Designer

Capitol Hill Urban Cohousing | Seattle, WA

Park Apartments TOD | Seattle, WA

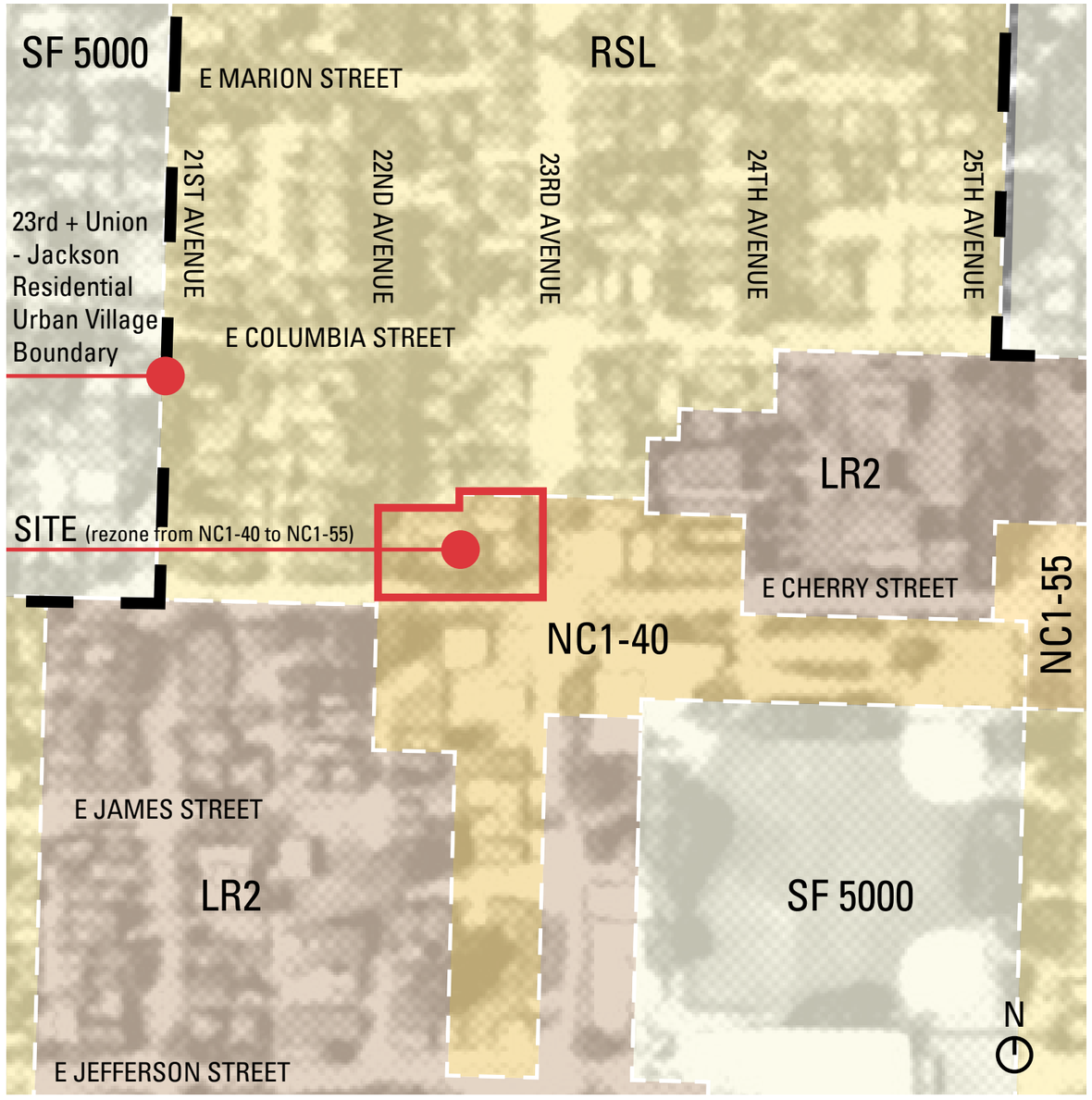
Station House TOD | Seattle, WA

The Parsonage | Seattle, WA

CONTEXT + SITE ANALYSIS

Acer HOUSE

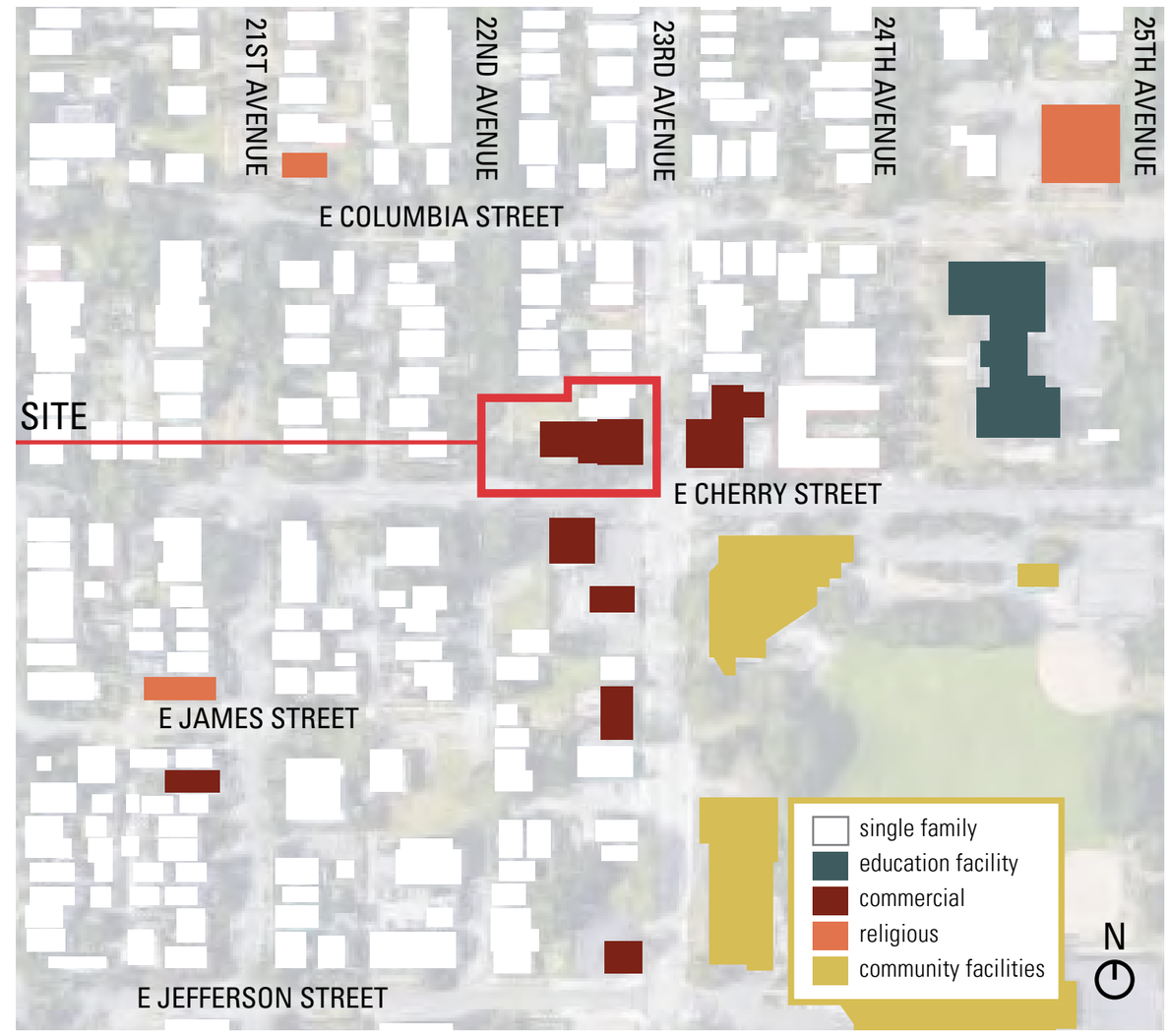
zoning



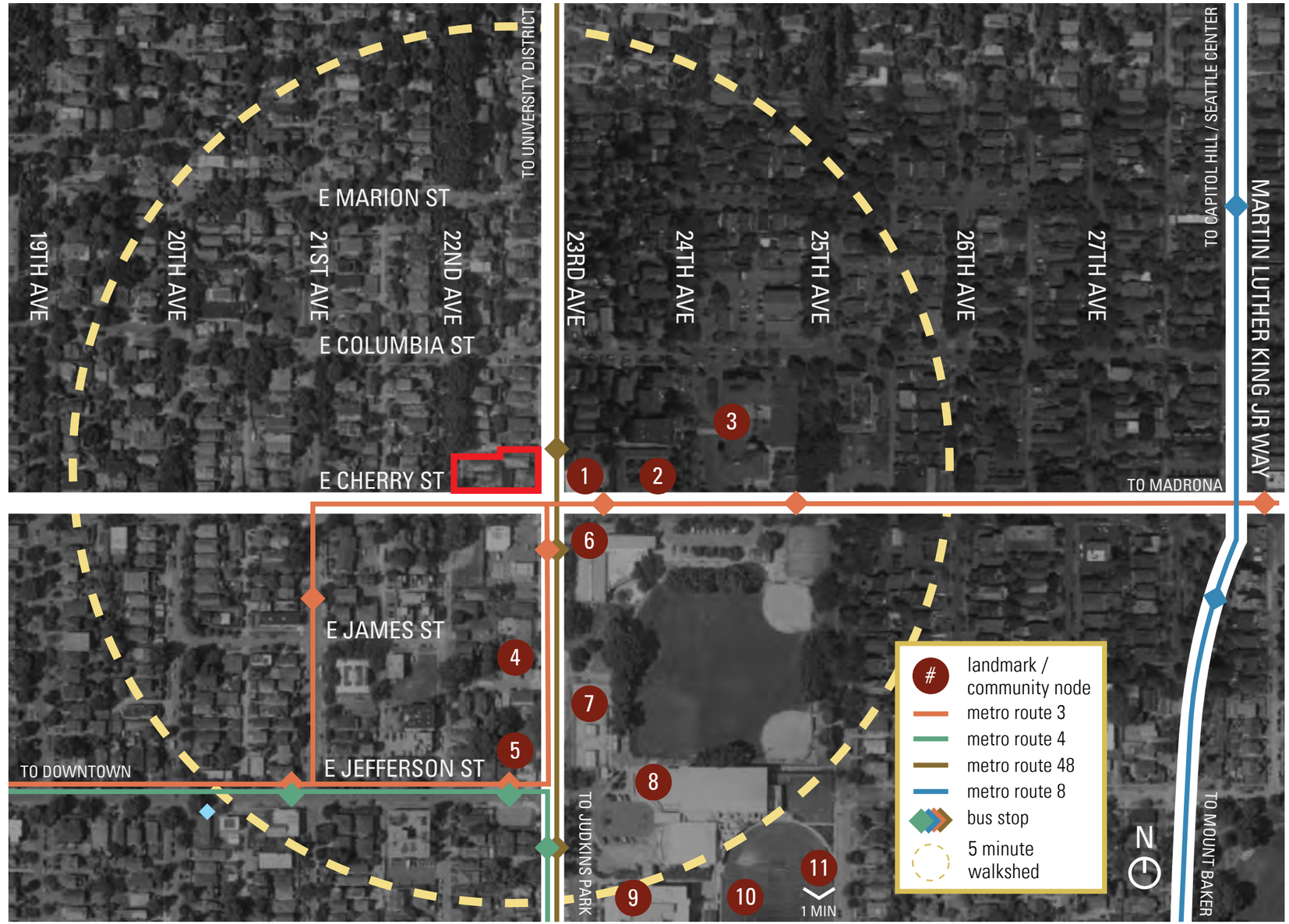
rezone narrative

This project is seeking a contract rezone from NC1-40 o NC1-55, and this packet reflects a proposal that complies with NC1-55 standards.

surrounding uses



neighborhood context



neighborhood context

4 causey's learning center

5 ezell's chicken

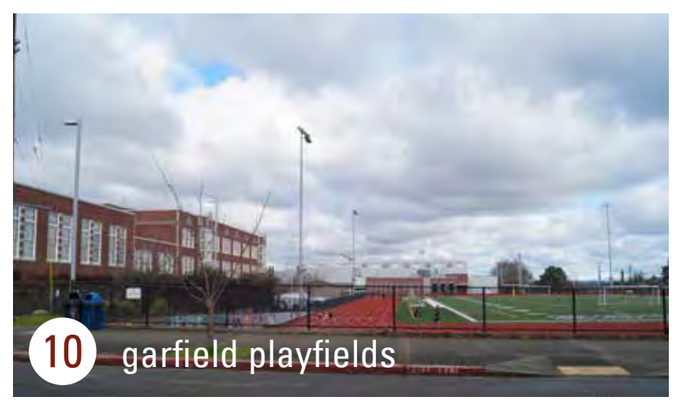
garfield superblock

6 garfield community center

7 medgar evers pool

8 quincy jones performing arts center

9 garfield high school


10 garfield playfields

11 eritrean community center

neighborhood design cues

Jackson Apartments

Central Area Health Care Center

Coyote Central

The neighborhood is a subarea of the Central Area and characterized by a variety of building scales, a mix of land uses, and large, mature street trees. It has an older commercial building and residential housing stock from the early 1900's. The area is approximately a quarter mile south of the commercial core of 23rd Ave and E Union Street. The growth potential along 23rd Ave between E Cherry and E Union is currently limited by the low-density zoning.

The south side of E Cherry near 23rd Ave is the northern edge of the Garfield Superblock. Located at the heart of the Central Area, the Garfield Superblock is the community's central gathering place as well as a historic destination. Known to some as "Little City Hall," the space pulsates with a rich history of events, people, and moments, which continues today. The block is comprised of the Garfield Community Center, Medgar Evers' Pool, tennis courts, playfields, Garfield Park, the historic Garfield High School built in 1900, the Teen-Life Center, and the Quincy Jones Performing Arts Center.

The Garfield Superblock Master Plan of 2005 recommends projects that can help pedestrian connectivity, bring visibility to blind spots, and activate dead zones on the less than friendly pedestrian streetscape. As the surrounding neighborhood changes rapidly, the 2021 Garfield Superblock Park and Promenade Renovation Project aims to share and memorialize the stories of these communities. Through art and community engagement, the park will be both an anchor for the past and a commitment to a diverse future.

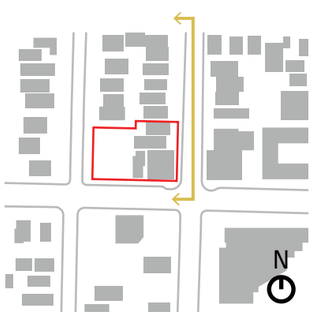
Zoning: The Cherry Street residential/commercial frontage, from 23rd Avenue east to Martin Luther King, Jr. Way, is a mix of older multistory apartment buildings and small single-story, active businesses. This strip is both NC1-40 feet and mostly NC1-55 feet zones with a large portion of the Superblock zoned as Residential Small Lot (RSL).

neighborhood axonometric

streetscape 23rd avenue

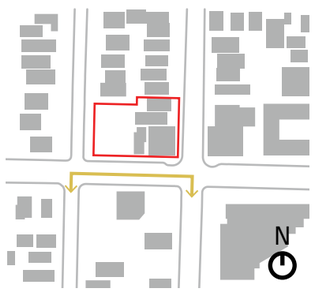
east side

west side

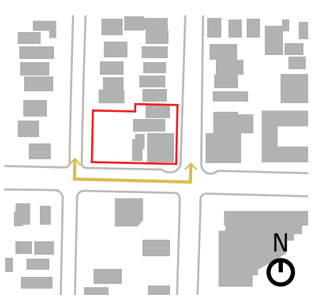


streetscape cherry street

south side



north side

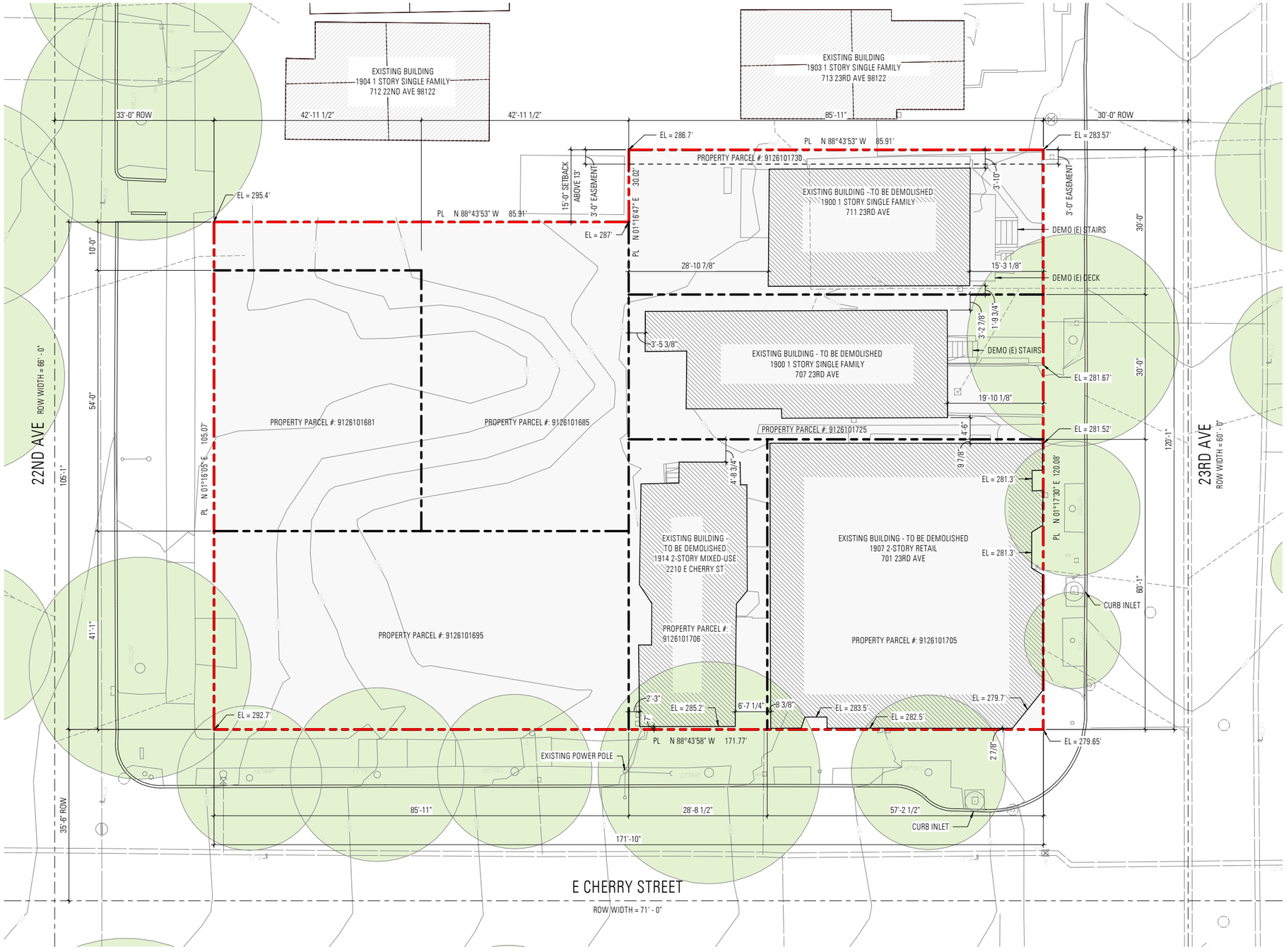


streetscape 22nd avenue

west side

east side

EXISTING SITE PLAN



existing site photos

zoning summary

full design review:	required
existing zoning:	9126101685: NC1-40 (M2), borders Residential Small Lot 9126101681: NC1-40 (M2) 9126101695: NC1-40 (M2) 9126101706: NC1-40 (M) 9126101705: NC1-40 (M) 9126101725: NC1-40 (M) 9126101730: NC1-40 (M), borders Residential Small Lot
proposed zoning:	NC1-55
permitted uses:	offices, commercial sales and services, multifamily residential, child care, live/work
maximum building height:	NC1-40 = 40'; NC1-55 = 55'
floor area ratio (FAR):	NC1-40 = 3.25; NC1-55 = 3.75 underground stories and child care centers are not counted site area = 19,343 sf FAR allowable (total) = 72,536 sf FAR allowable (average per floorplate) = 14,507 sf
maximum buildable area:	NC1-40 = 62,865 sf; NC1-55 = 72,536 sf
zoning setbacks:	between commercial and residential zones at street: 15' triangle corner setback between commercial and residential zones at side and rear lot lines: 15' between 13-40' of building height + 3' additional setback for every 10' of additional building height
MHA:	High; 11% of residential units
environmentally critical areas (ECA):	none
SEPA:	required
street-level, street-facing facades:	
general:	20% residential uses maximum; must be located within 10' of street lot line, or must have wider sidewalks, plazas, or other landscaped or open areas approved
residential:	either set back 10' or be vertically located 4' above or below sidewalk grade
non-residential:	13' min floor-to-floor height; 30' avg depth; 60% min transparency
live/work (non-res):	work area = 300 sf min; 15' min depth from street facade; direct pedestrian entry
amenity area:	5% of residential GFA
landscaping:	0.3+ Green Factor; street trees; screening of utility service uses
parking:	none required

PRIORITY DESIGN GUIDELINES

Acer HOUSE

priority guidelines + description of intent

CS1 Natural Systems + Site Features

Use natural systems and features of the site and its surroundings as a starting point for project design.

1. Local Topography | Our design process starts with a response to the positive aspects of the local topography. We intend to take advantage of the grade change along East Cherry Street to provide variety in the relationships and interactions between the building's ground floor and the public sidewalk. The topographic change also facilitates clear delineation between the entrances to commercial and residential spaces. The lowest point of the site, at the corner of 23rd Avenue and East Cherry Street, has defined entrances to the commercial spaces along the commercial face of 23rd Avenue whereas the entrance to the lobby of the residential floors is separately defined at an uphill location near 22nd Avenue where the grade is ten feet higher than the commercial corner. The elevation near the midpoint of the block on East Cherry Street allows public courtyard access.

2. Connection to Nature | Within our Afrofuturist design theming, the lush planting of ornamental and editable landscape represents a traditional and pragmatic Afrocentric response to connections to nature. Planting strips along three street sides of the project will act as a bio-retention system for the reduction of stormwater outflow. The existing healthy and mature street trees will be saved when possible. The courtyard edge of the inclined sidewalk will be landscaped to diminish the presence of the retaining wall. The courtyard will be planted in a design plan to differentiate public and private spaces. Landscaping screens will be utilized for privacy at the front of the residences. The installation of green roofs and rooftop vegetable gardens reduce heat island effects, restrict stormwater outflow, protect the roof membrane and offer fresh food opportunities to the building's residents and restaurants.

PL1 Connectivity

Complement and contribute to the network of open spaces around the site and the connections among them.

1. Accessible Open Space | An Afrofuturist commitment to building community seeks to provide sharable open space. The East Cherry Street-facing courtyard represents our publicly-accessible community space. Due to the incline of the public sidewalk, universal access to the courtyard will have to be directed through the commercial spaces doorway near 23rd Avenue. Rooftop open space will be accessed by an elevator.

PL3 Street Level Interaction

Encourage human interaction and activity at the street level with clear connections to building entries and edges.

1. Frontages | Afrofuturist pallet applications of color, materials and signage will define the street level interaction of commercial and residential uses. Color and materiality will be applied to demarcate commercial from residential uses. Signage for commercial uses will be low key, yet visible from the pedestrian view and include the commercial tenants branding to offer a diversity of graphic design. Ground level frontages will prioritize transparency of the commercial spaces for external views in, and for easy identification of commercial activities - and internal views out, as "eyes on the street" to improve personal security. Courtyard level residential units will have entrances to the courtyard screened for privacy utilizing the installation of landscape features.

priority guidelines + description of intent

DC2 Architectural Concept

Develop a unified, functional architectural concept that fits well on the site and its surroundings.

1. Building Layout and Massing | It is our design intent to articulate the building's massing to exhibit a diminished continuous mass. Street-related sides of the building will be broken up into clearly distinct wings of the upper residential floors. An Afrofuturist design principle of balanced asymmetry will guide the de-massing of the structure. The courtyard has a southern orientation to daylight the maximum façade area. The changing topography creates a sense of reduction of the building mass as the facades present a dynamic change of view as pedestrians and vehicles move up and down the sidewalk and street. A partial top floor will be over the west wing only and will add to the vertical articulation to avoid a flat top appearance seen all too often on projects built to the extremes of the allowed buildable envelope. The ground floor facades will have an assembly of human scale segments in height and a division of storefront glazing.

DC3 Open Space Concept

Integrate open space design with the design of the building so that each complements the other.

1. Common Open Spaces | The East Cherry street-facing courtyard will be used primarily for fair weather outdoor sales opportunities and dining by the shops and restaurants flanking the outdoor "room". Residential units facing the courtyard will have privacy screening of landscape elements. A "community porch" will be an extension of the commercial space at an elevation ten feet above the western edge of courtyard. The rooftop will provide outdoor common spaces for residents use of a penthouse fitness room and vegetable garden.

DC4 Exterior Materials + Finishes

Use appropriate and high-quality elements and finishes for the building and open spaces.

1. Building Materials | Materials will be durable, low maintenance-dependent and environmentally sustainable. Modules of exterior materials will be smaller scale, exhibiting components placed-by-hand where the building meets the ground and has human interaction. The exterior cladding on upper floors will be larger panels that are generally installed by crane or scaffolding. This project's Afrofuturist facade will be culturally expressive in its materiality, window placement, patterning, texture and color.

1. Building Details and Elements | Detailed design elements will contain references of African and African American textiles, artifacts, patterns and visual art. Our design approach is to consider each exterior surface as an opportunity to apply layers of façade fenestration, textural surface development and color from an Afrofuturist pallet.

A1 Additional Character

Contribute to architectural and placemaking character with local history and cultural references.

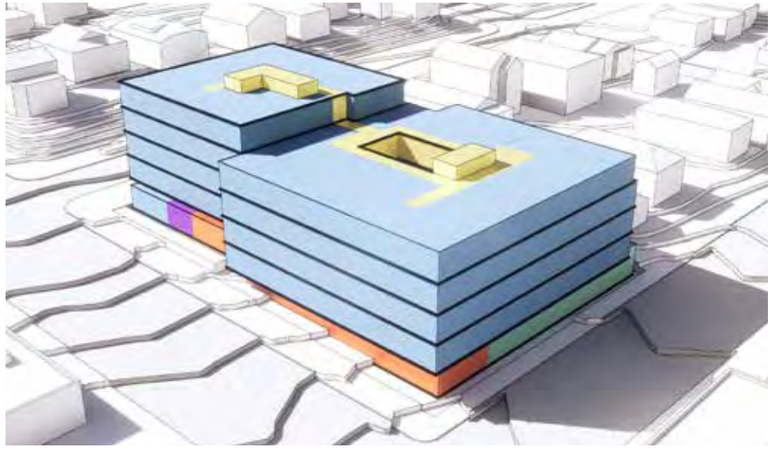
1. History and Heritage | Color and materiality will be part of an overall culturally-responsive theming of the project. The project planning will identify areas and surfaces to provide additional opportunities for curated art of exterior sculpture, screens and façade murals. Local artists will be commissioned to add representative forms and images of the neighborhood's history, heritage and forecast future. Interior common areas will provide space for historically interpretive galleries of paintings and photos.

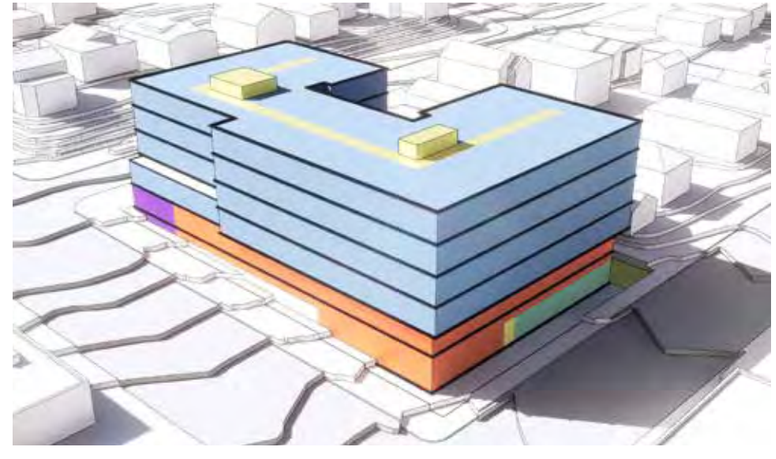
ARCHITECTURAL MASSING CONCEPTS

Acer HOUSE

concept comparison

preferred





concept 1 | square donut

number of stories = 5.5
number of residential units = 130
total commercial/childcare square footage = 7,347 sf
number of live-work units = 7
gross floor area = 81,465 sf
net rentable area = 59,224 sf
parking = none provided

opportunities
- code compliant
- maximize number of residential units
- holds the street edge

challenges
- no accessible outdoor community spaces at ground level

concept 2 | north-facing courtyard

number of stories = 5.5
number of residential units = 120
total commercial/childcare square footage = 7,461 sf
number of live-work units = 2
gross floor area = 76,159 sf
net rentable area = 53,664 sf
parking = none provided

opportunities
- private outdoor space at ground level
- holds street edge

challenges
- north-facing courtyard creates more units looking at north single-family homes
- north-facing courtyard does not receive daylight

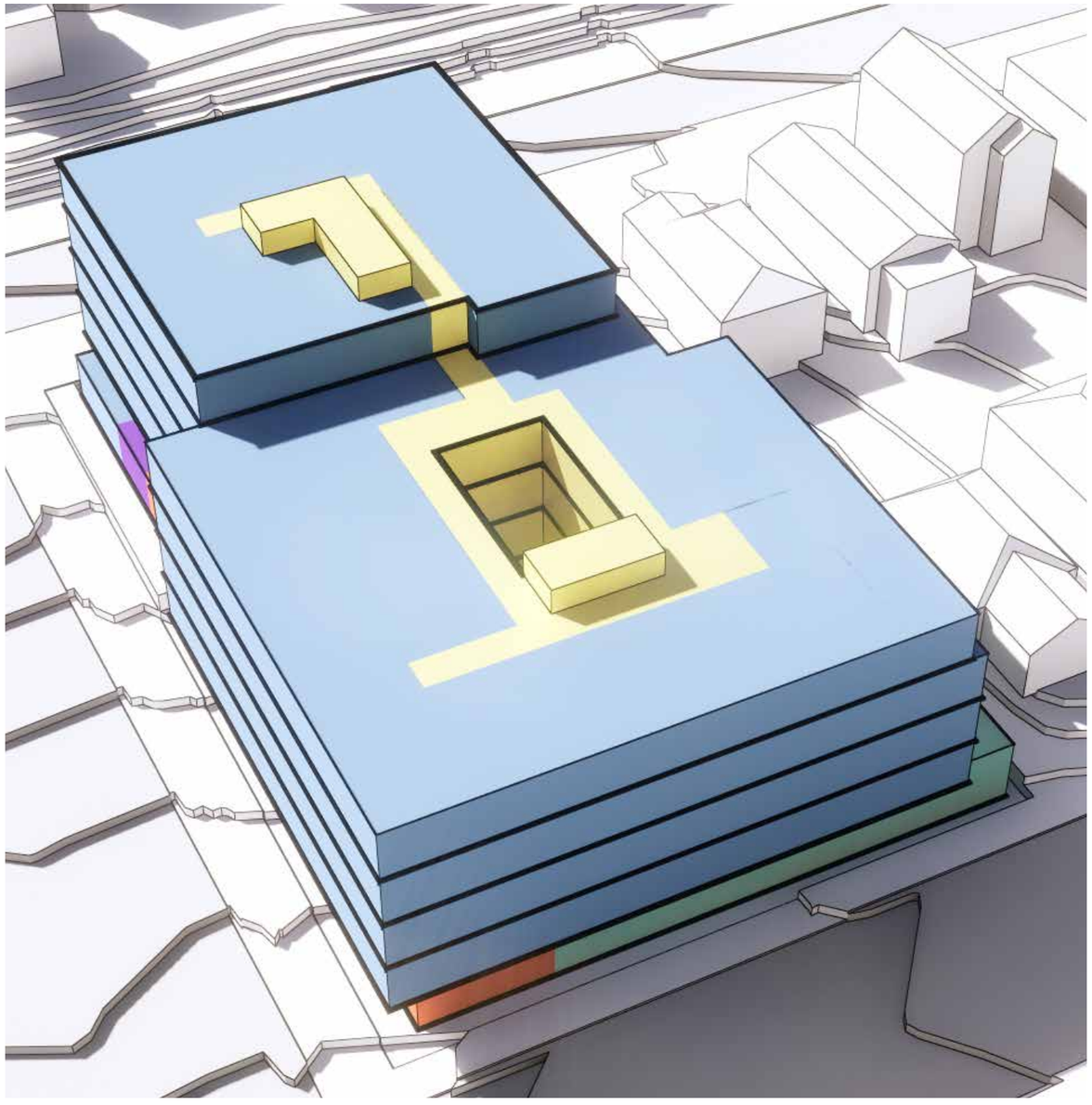
concept 3 | south-facing courtyard

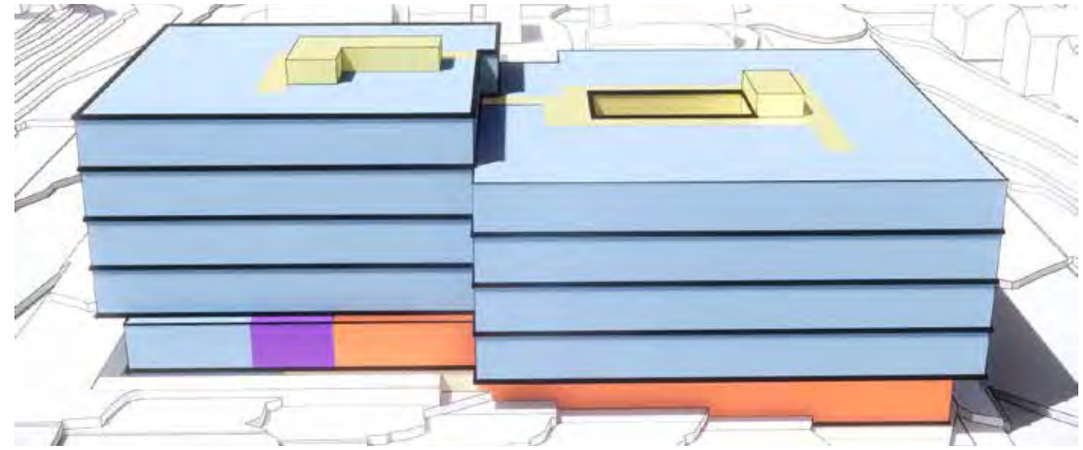
number of stories = 5.5
number of residential units = 120
total commercial/childcare square footage = 5,516 sf
number of live-work units = 4
gross floor area = 72,401 sf
net rentable area = 54,007 sf
parking = none provided

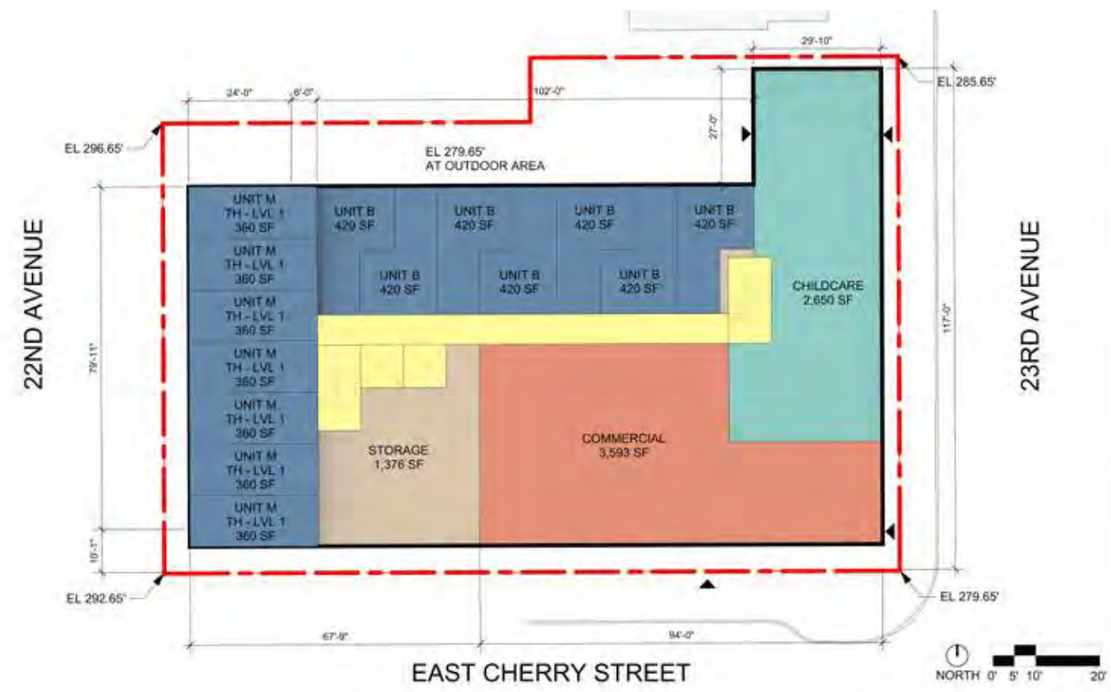
opportunities
- south-facing courtyard is accessible public outdoor community space
- south-facing courtyard has direct sunlight
- south-facing courtyard has more units with access to sunlight

challenges
- requires departures

concept one | massing concept





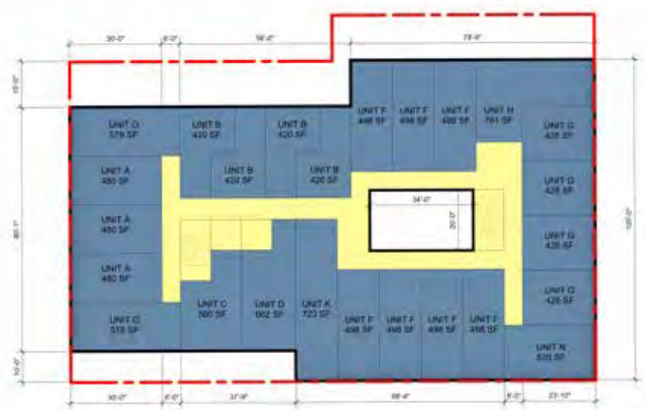


concept one | floor plans

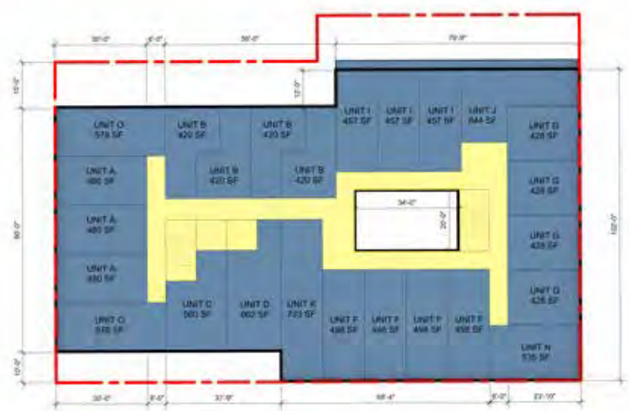
floor 1

floor 2

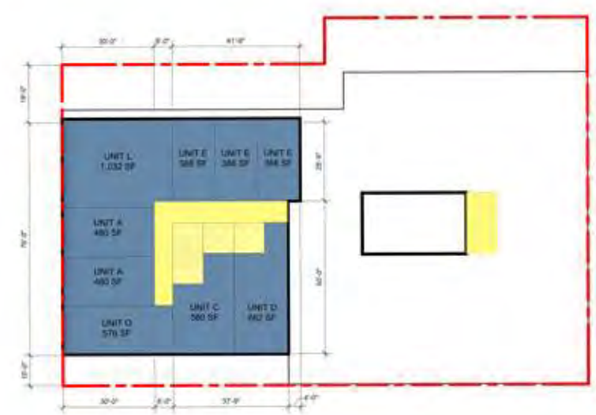
floor 3



floor 4

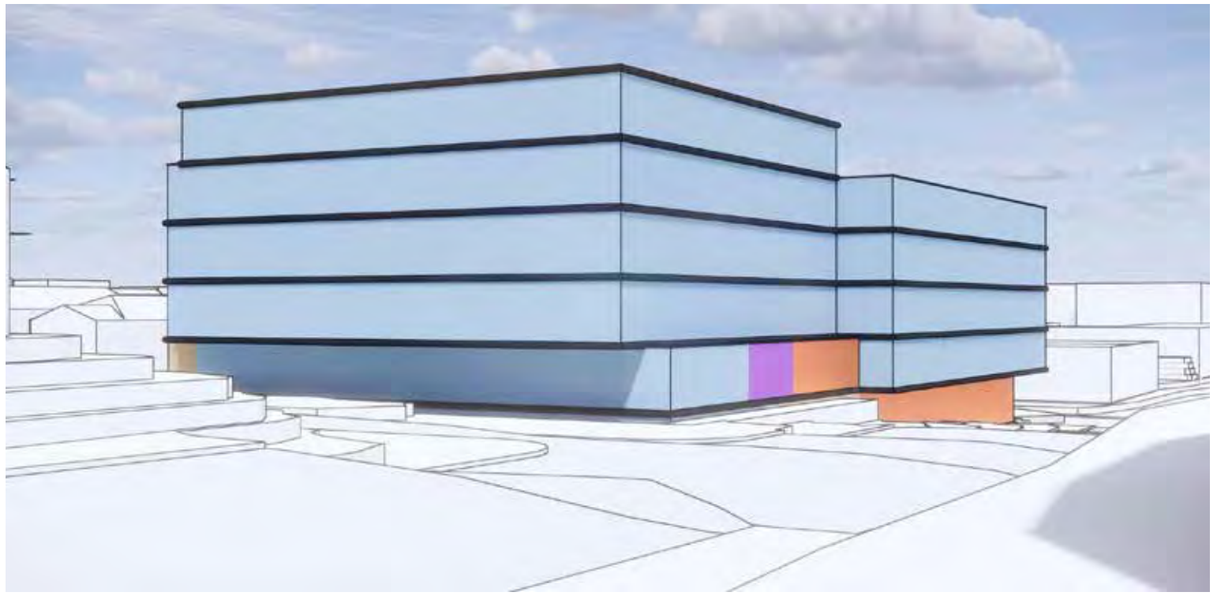


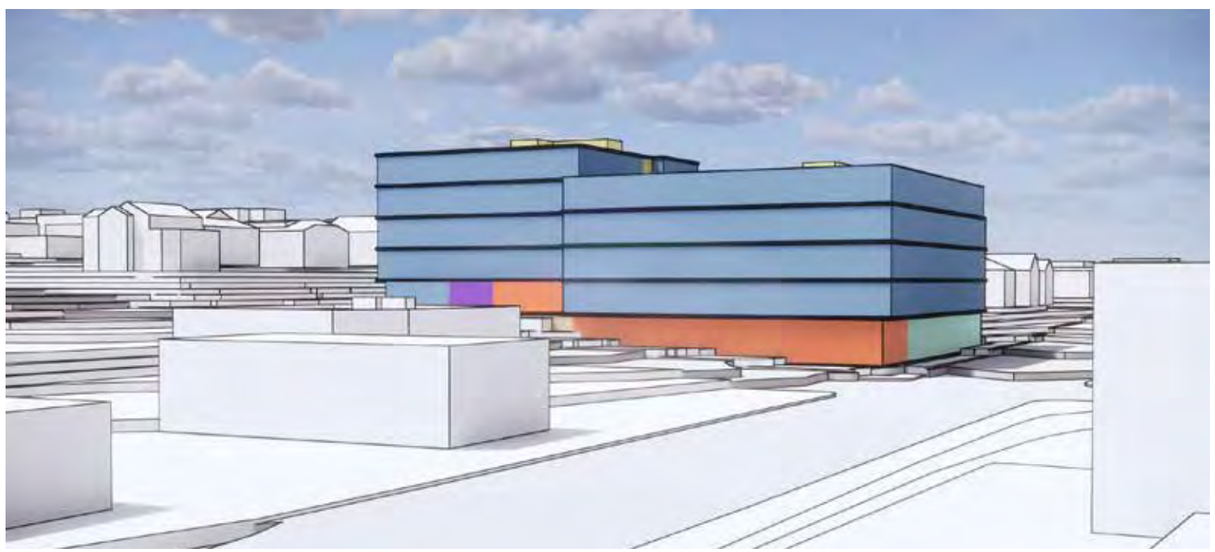
floor 5

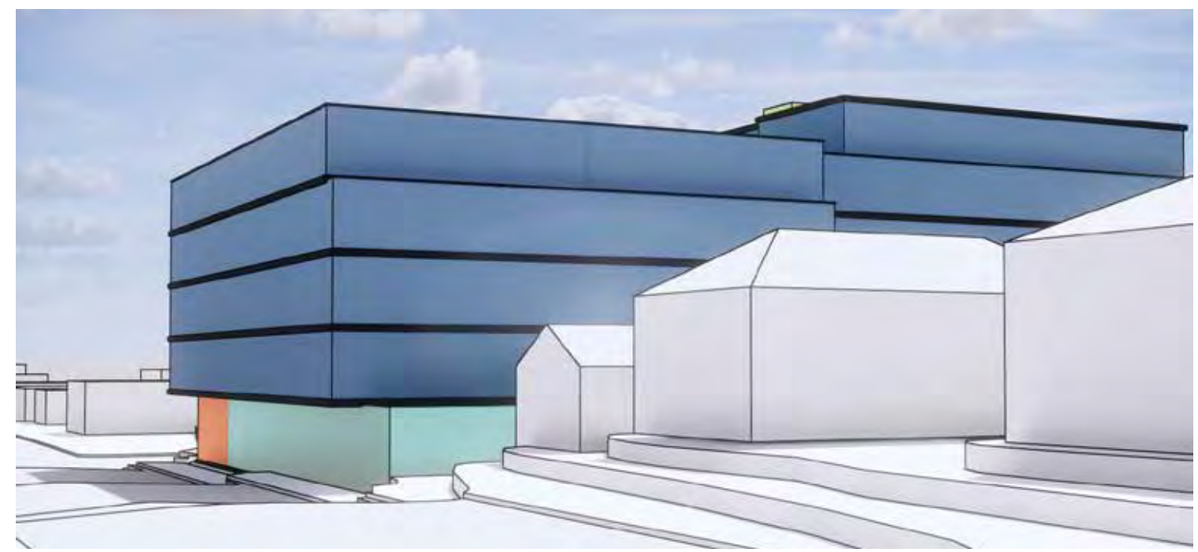


floor 6

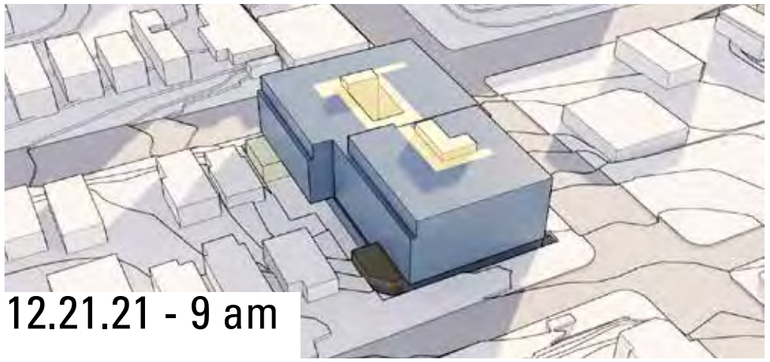
concept one | street level experience







concept one | sun + shadow analysis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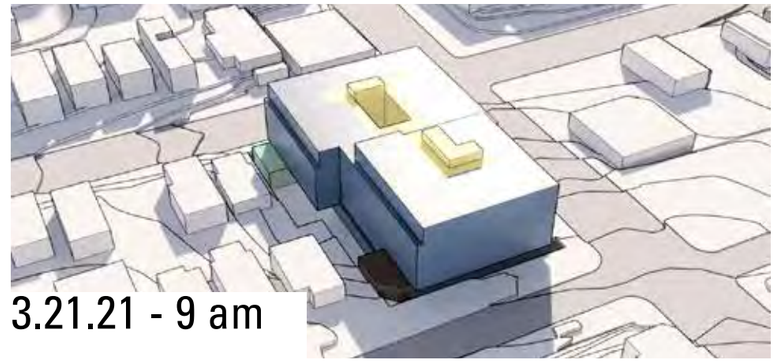
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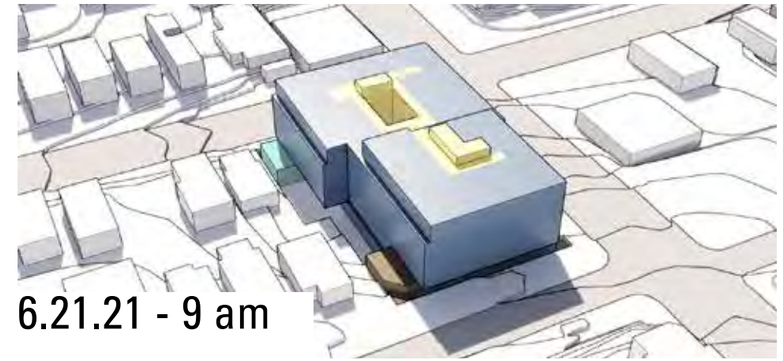
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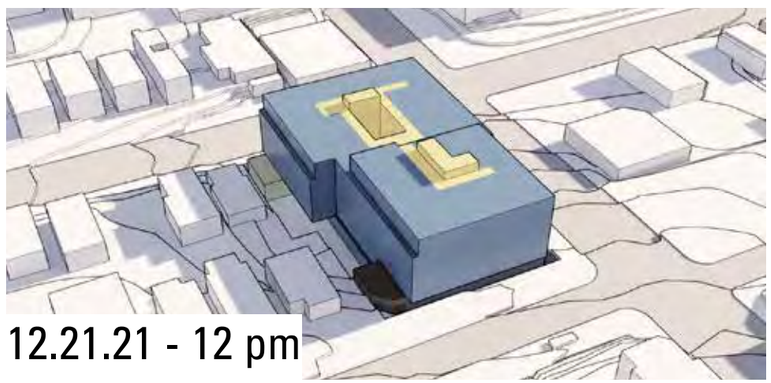
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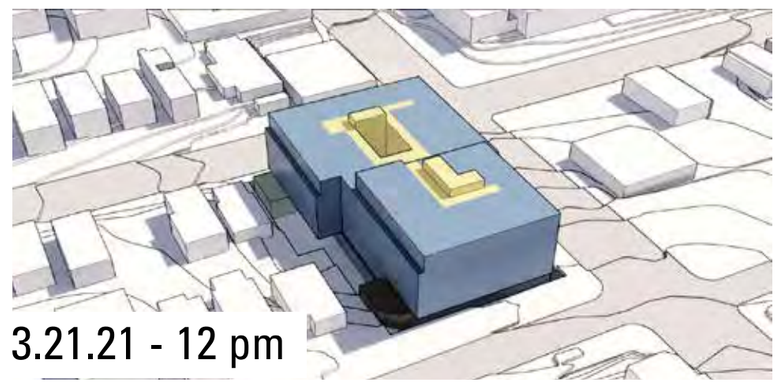
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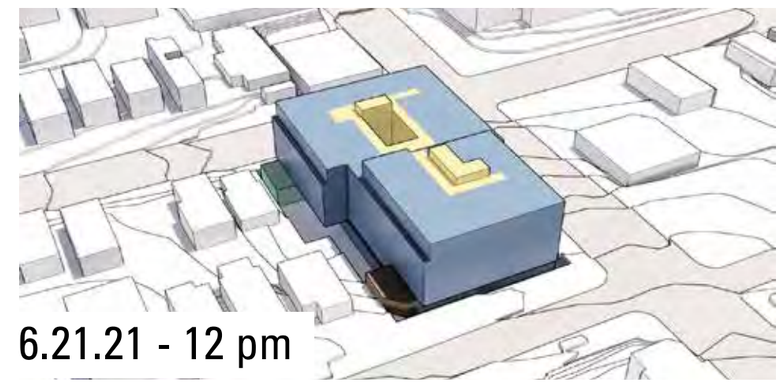
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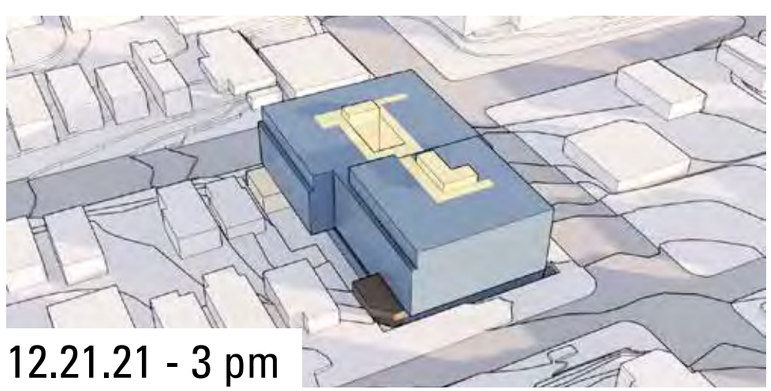
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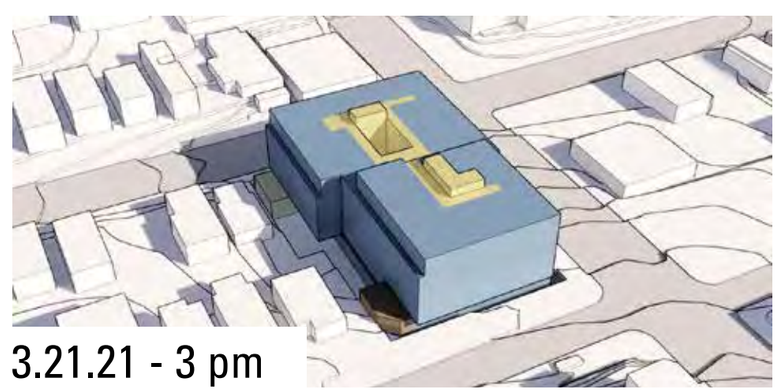
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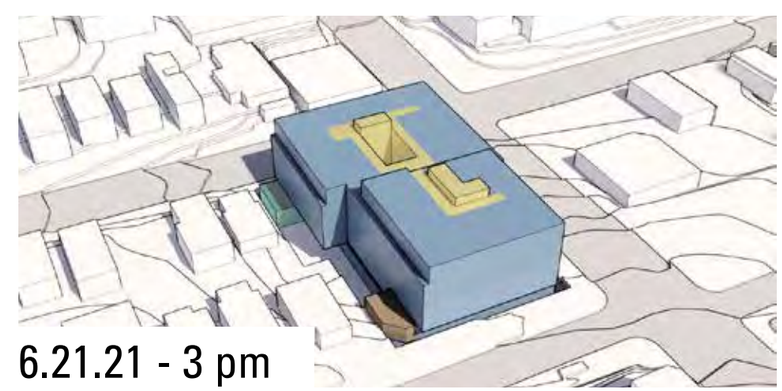
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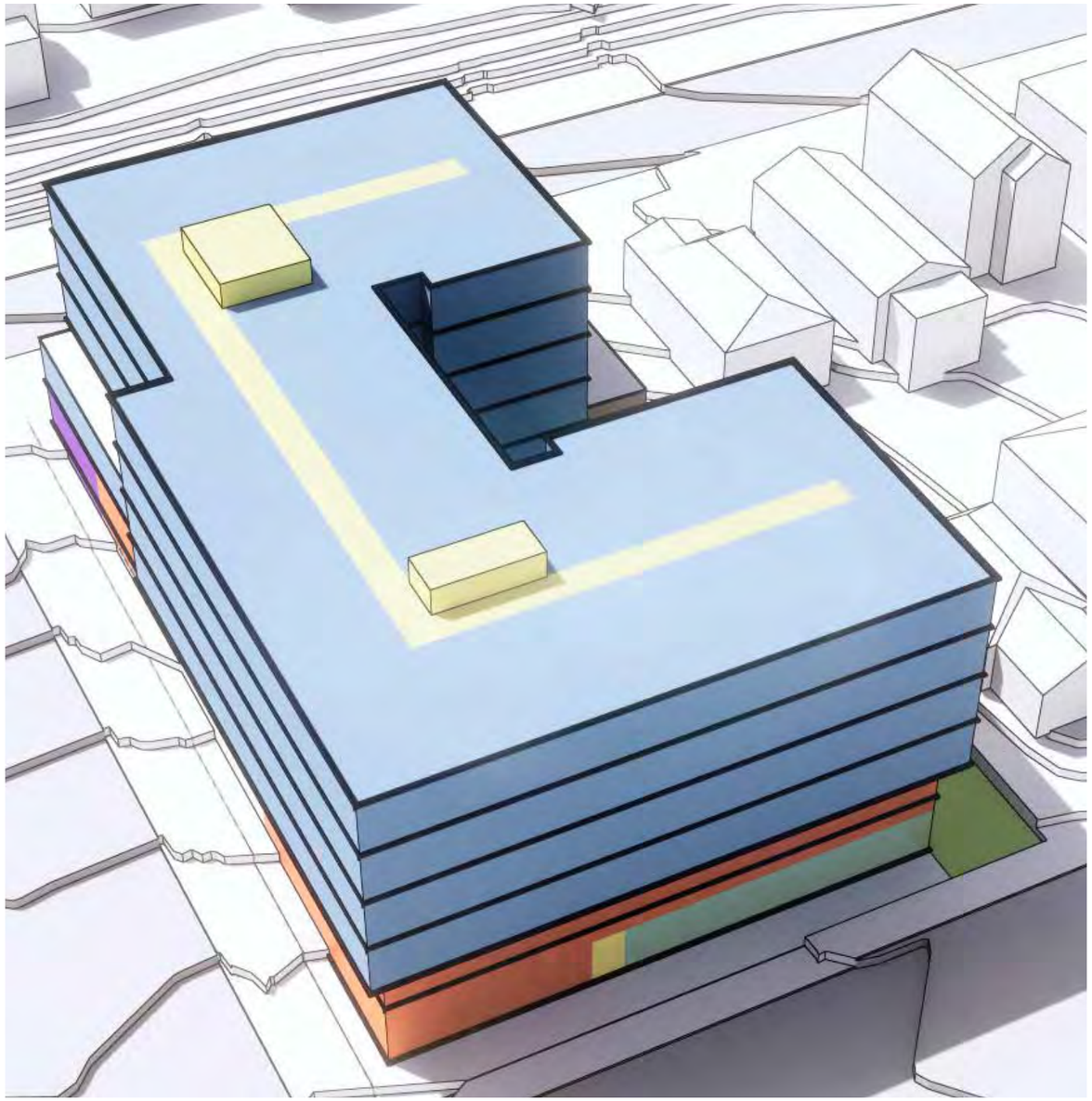
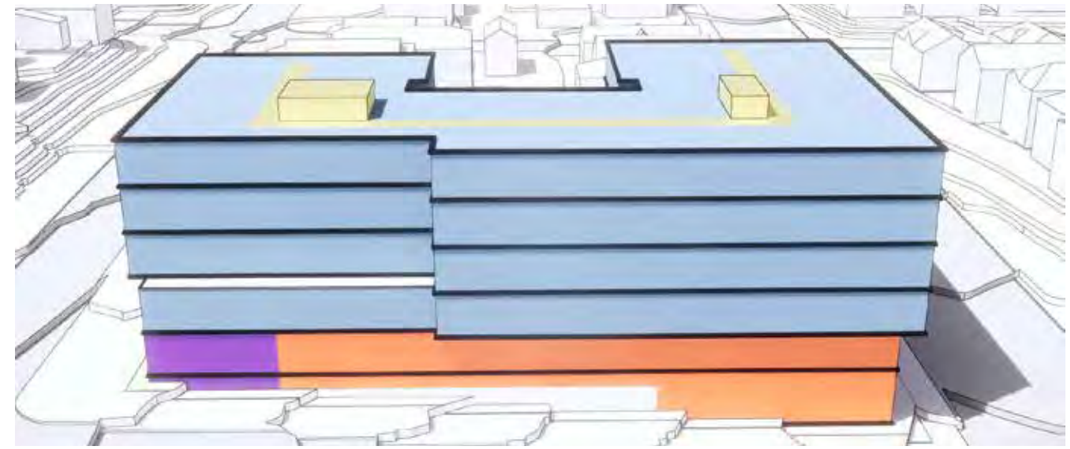
concept two | massing concept

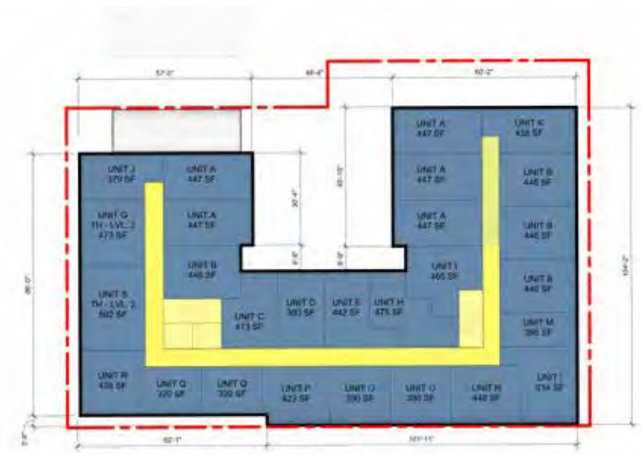




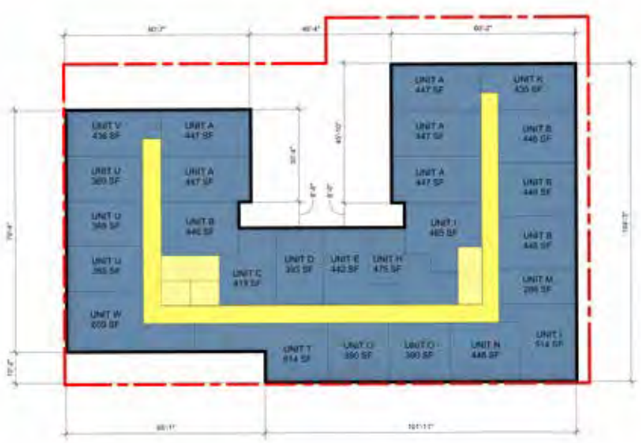
concept two | floor plans

floor 1

floor 2

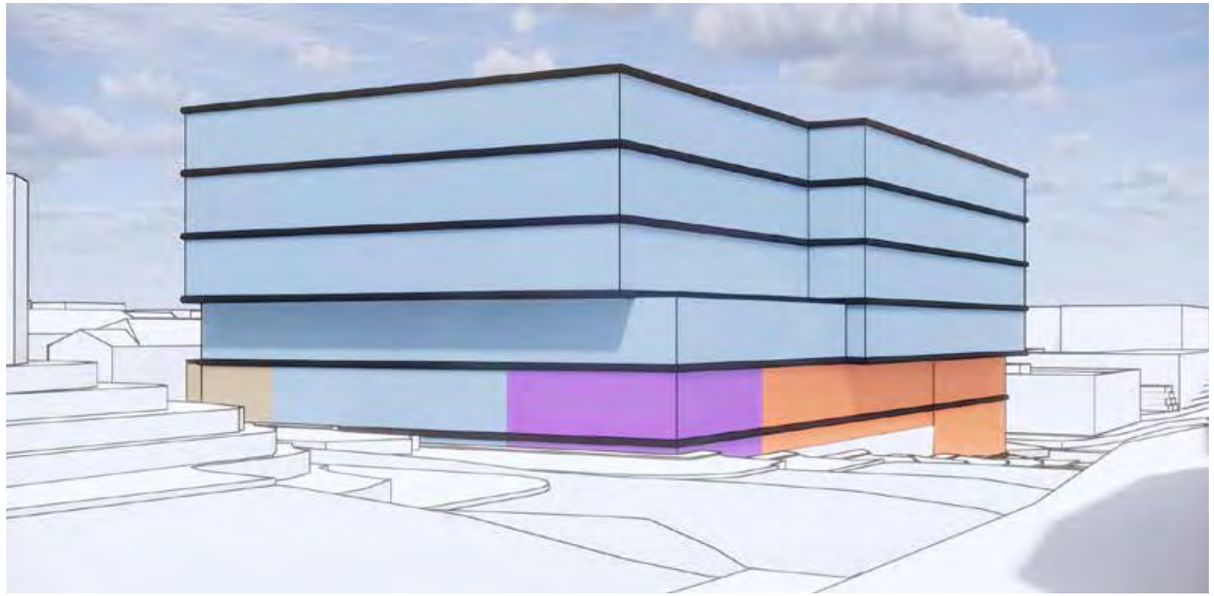


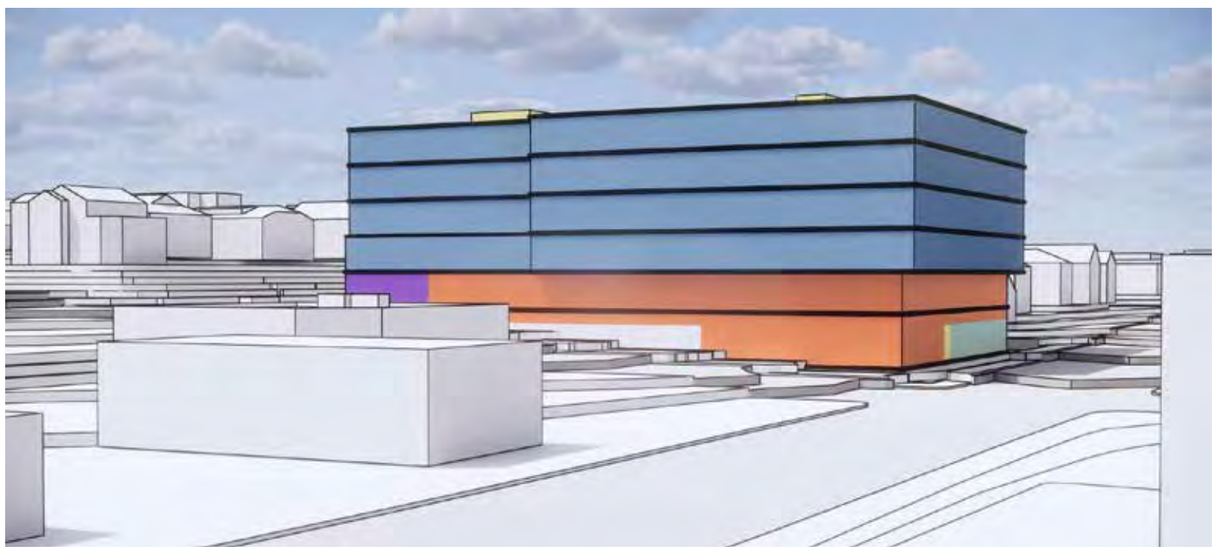
floor 3

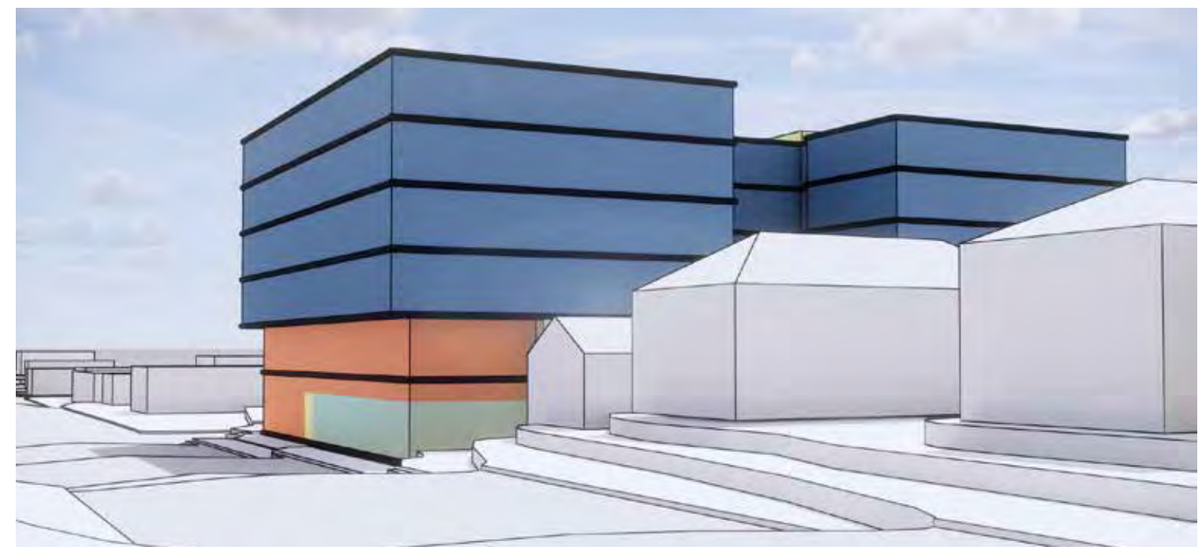


floors 4-6

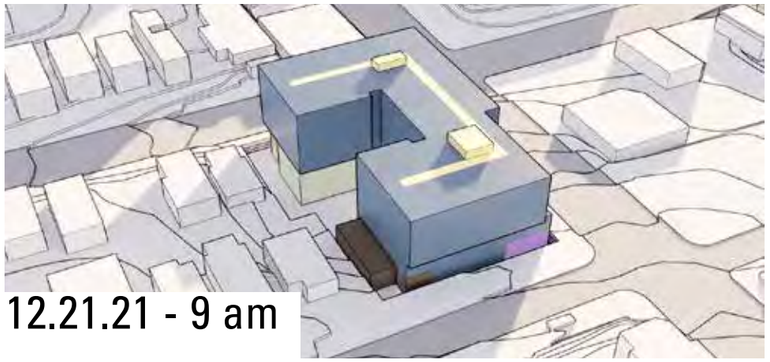
concept two | street level experience







concept two | sun + shadow analysis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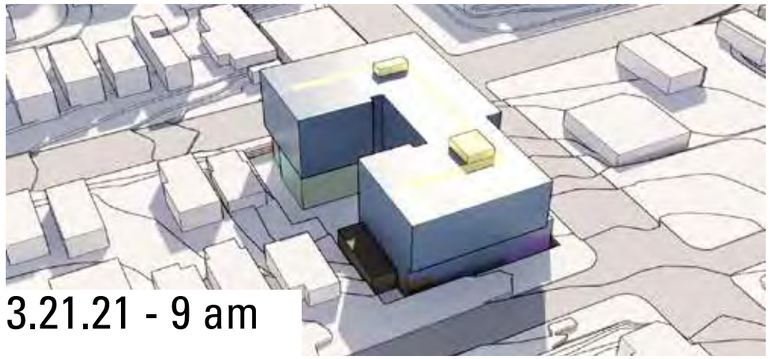
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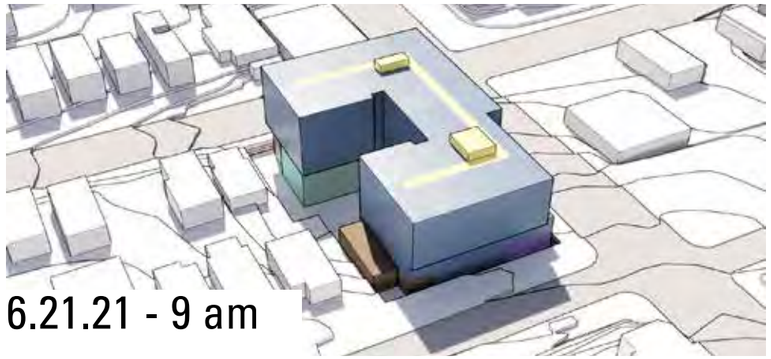
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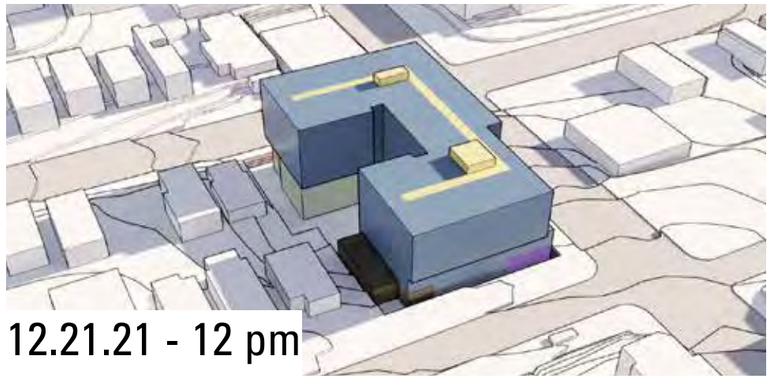
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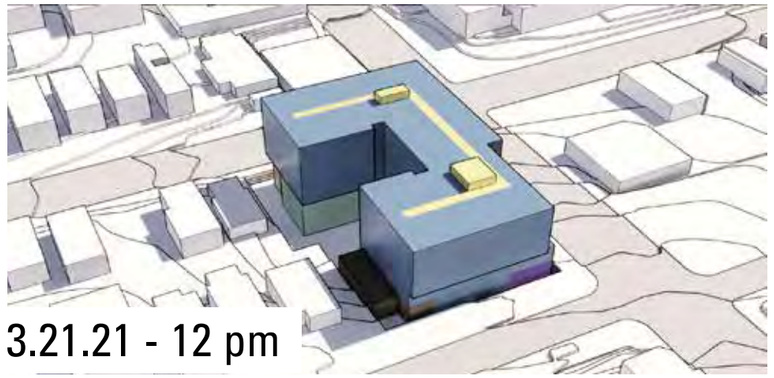
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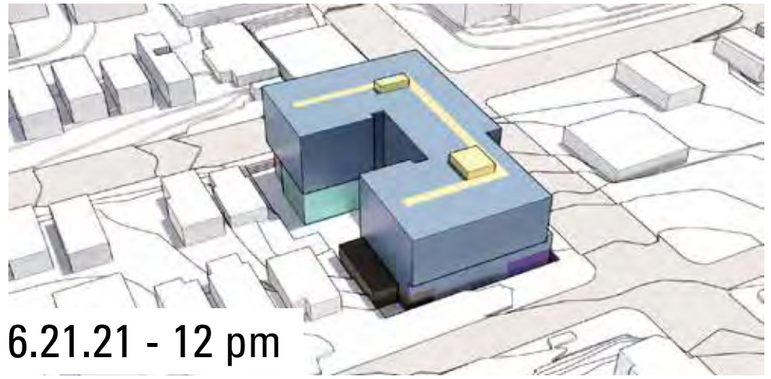
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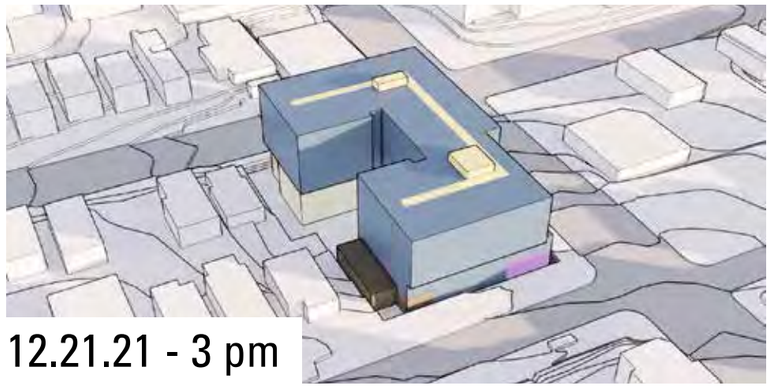
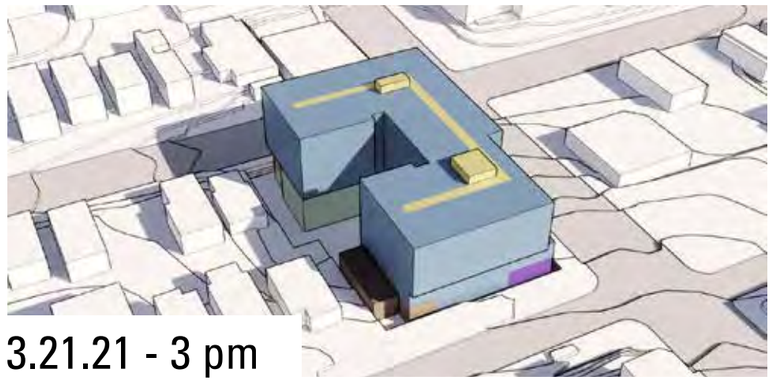
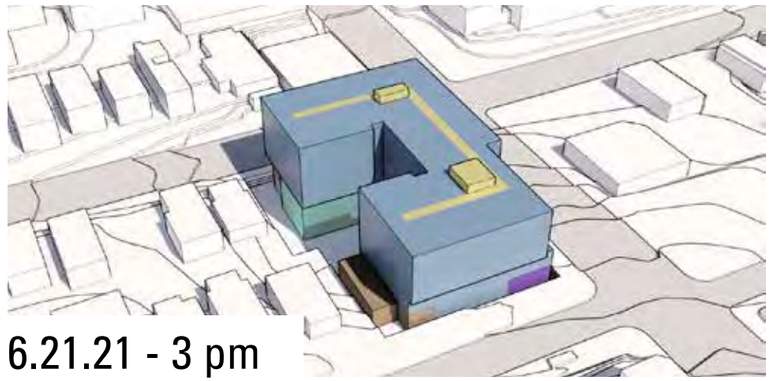
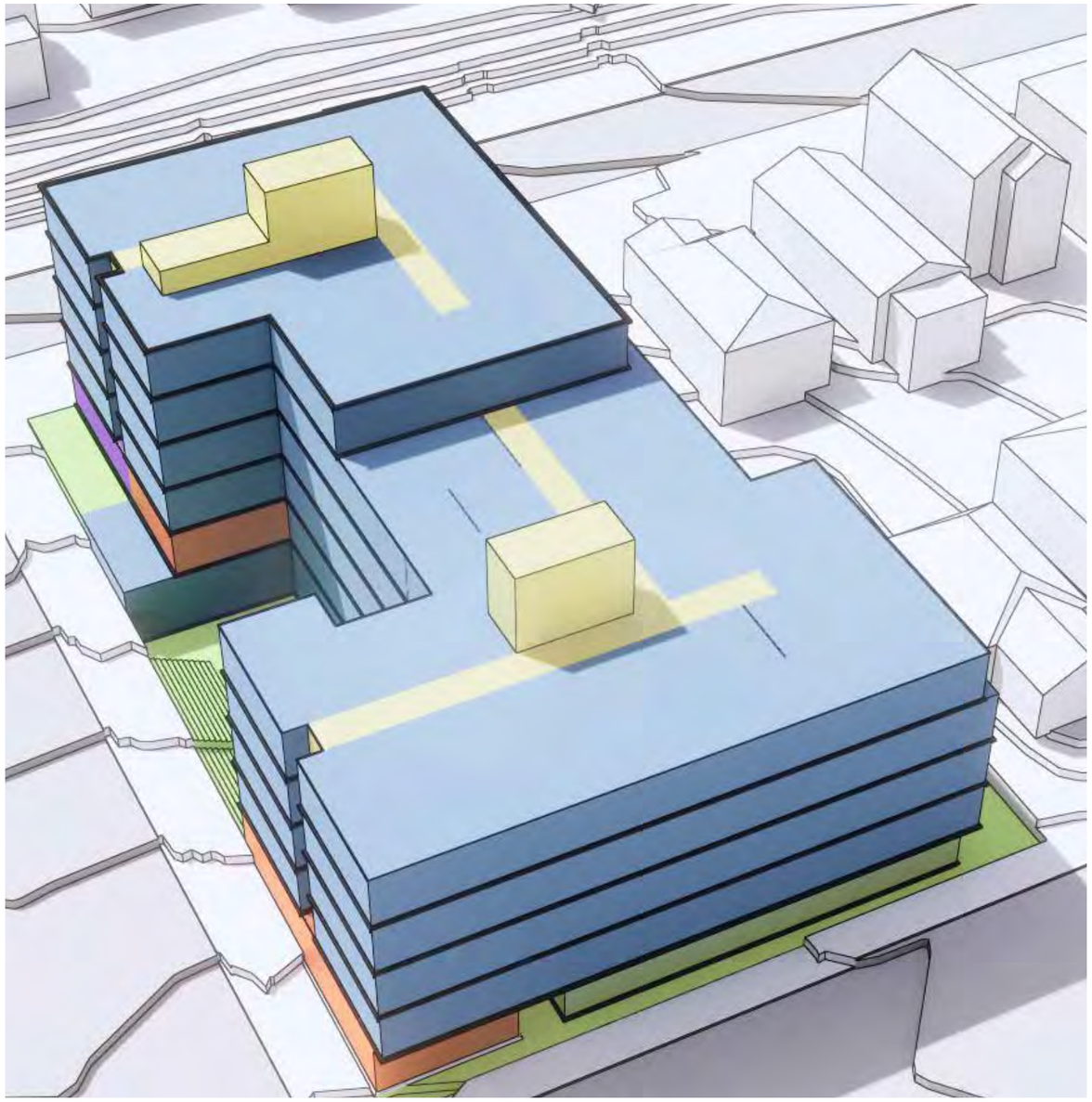
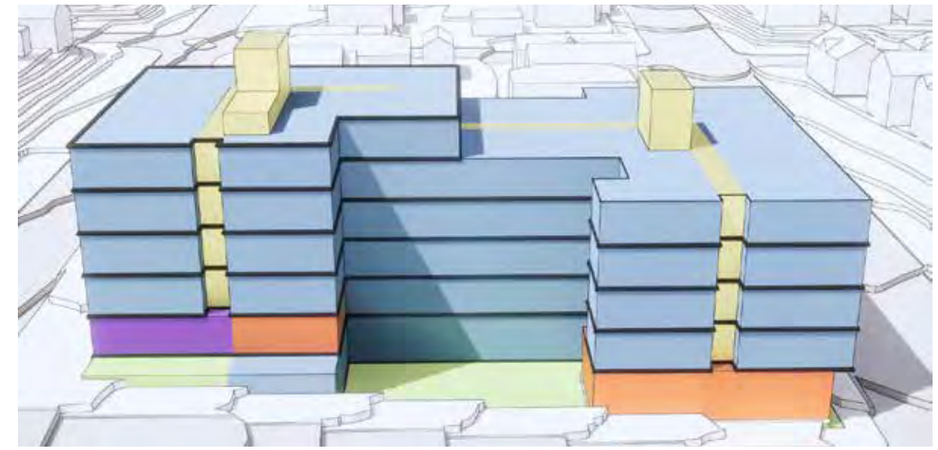

12.21.21 - 3 pm

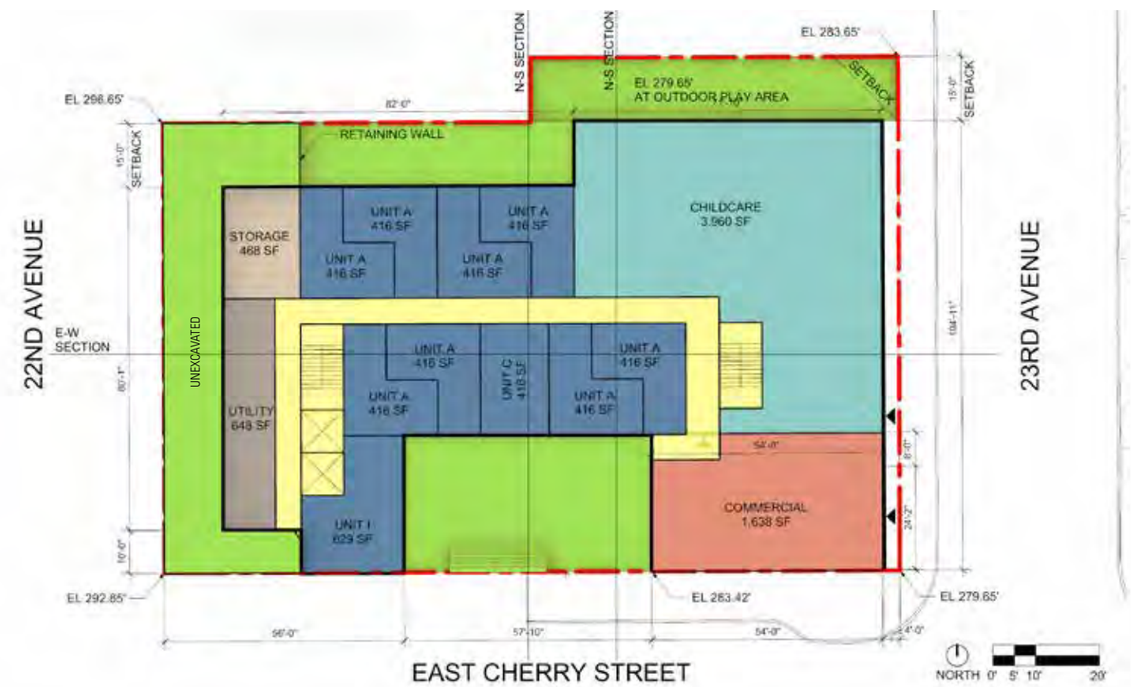

3.21.21 - 3 pm


6.21.21 - 3 pm

concept three | massing concept





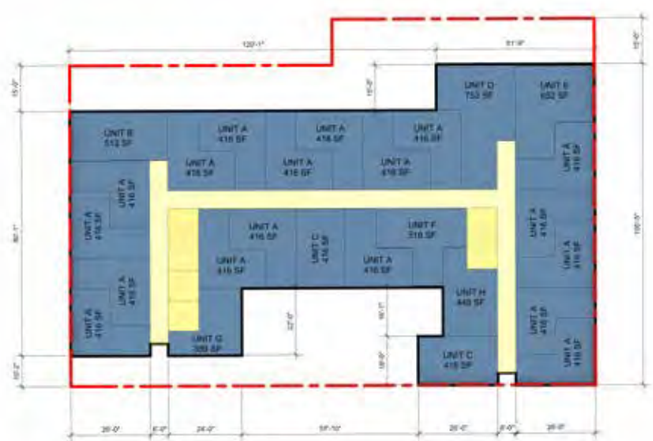


concept three | floor plans

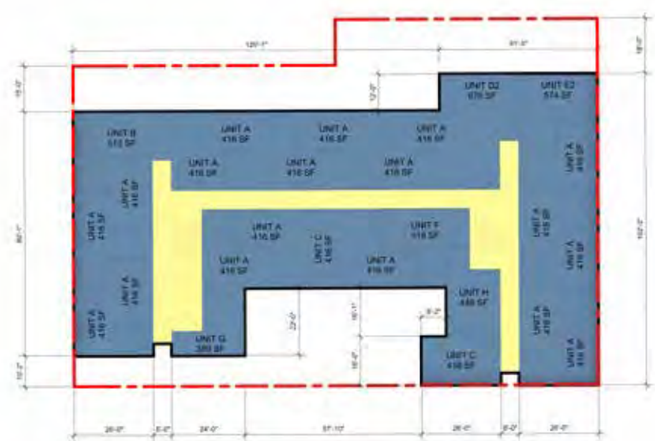
floor 1

floor 2

floor 3



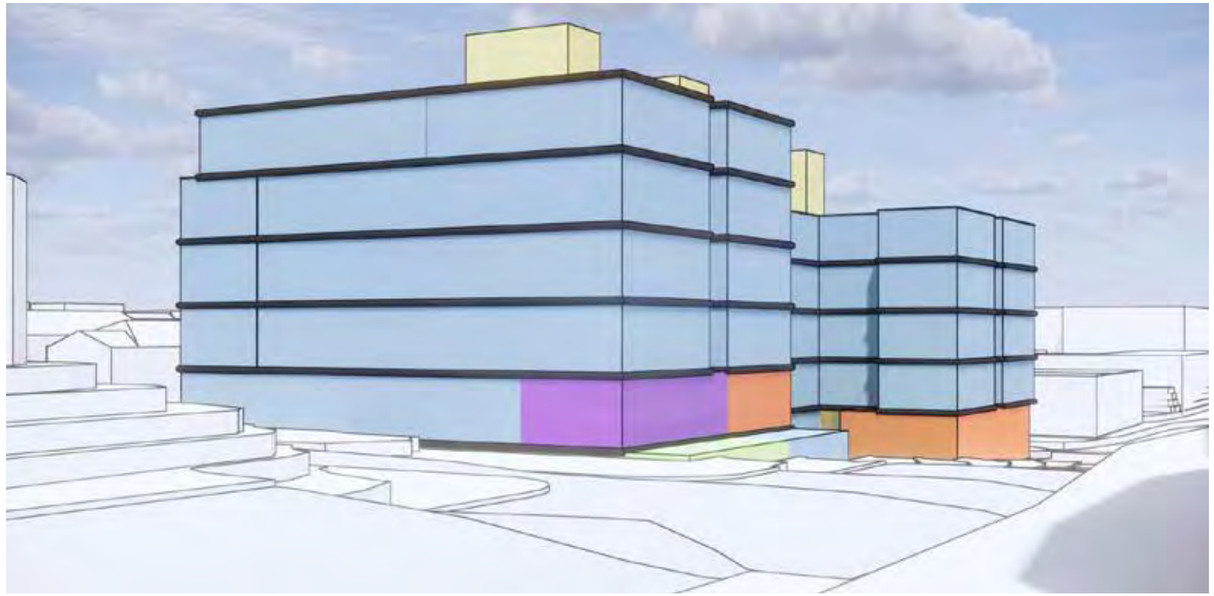
floor 4

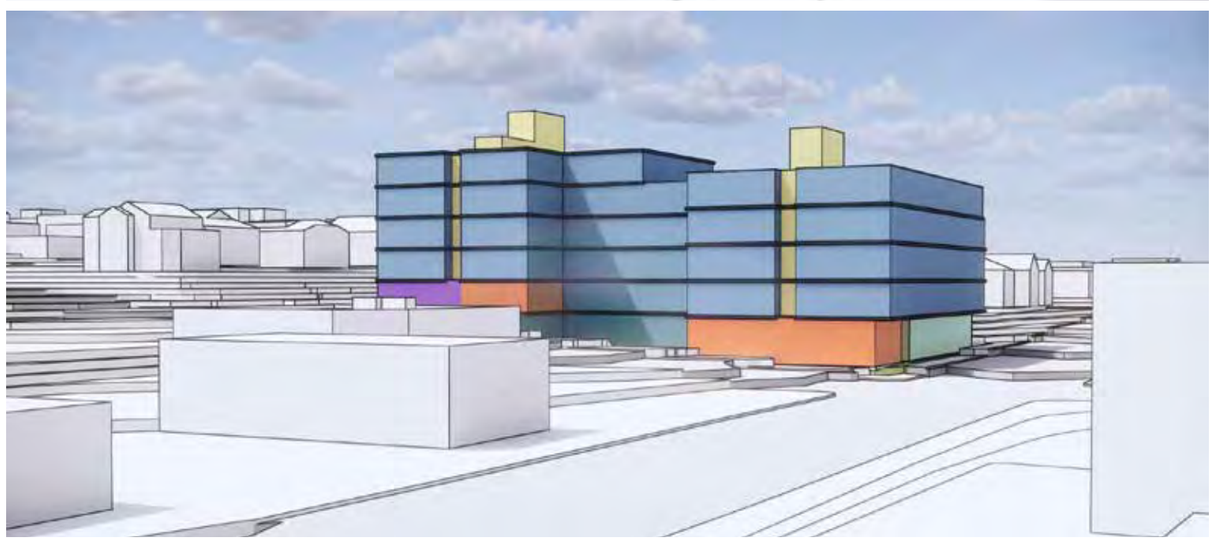


floor 5

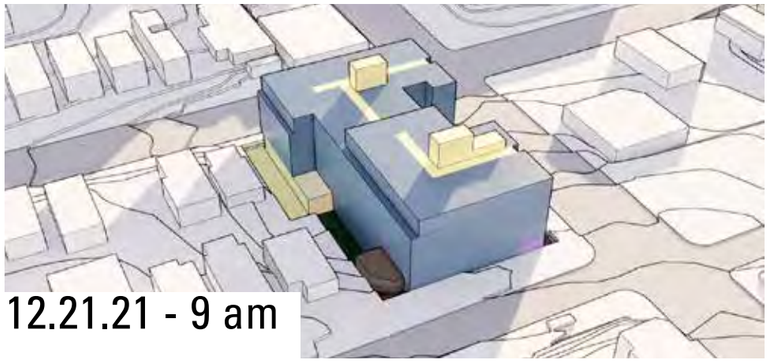
floor 6

concept three | street level experience





concept three | sun + shadow analysis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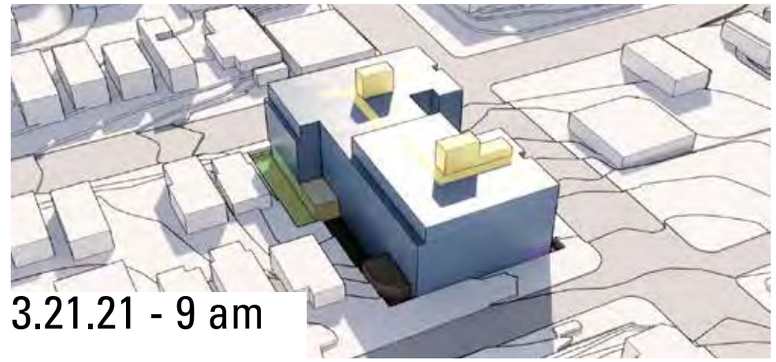
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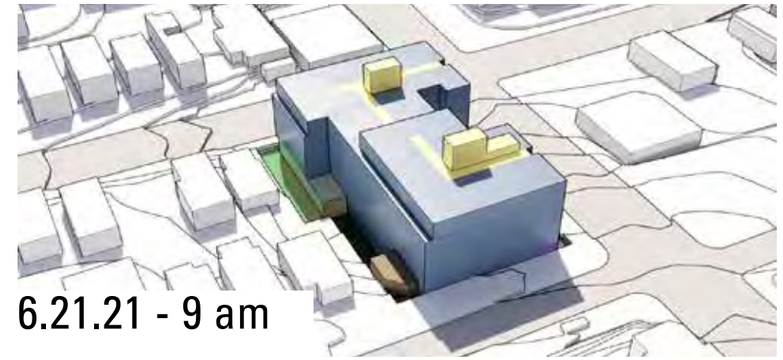
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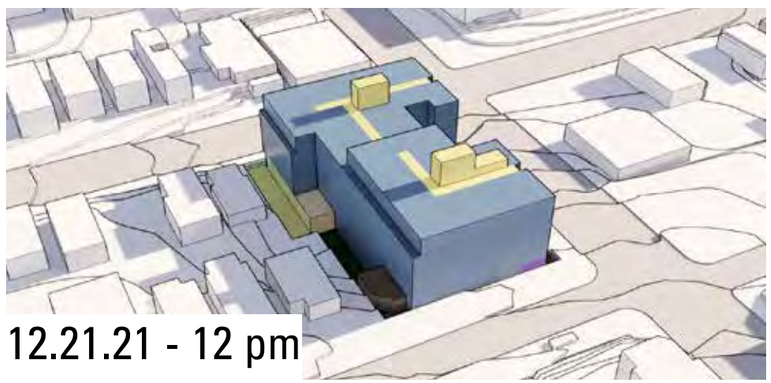
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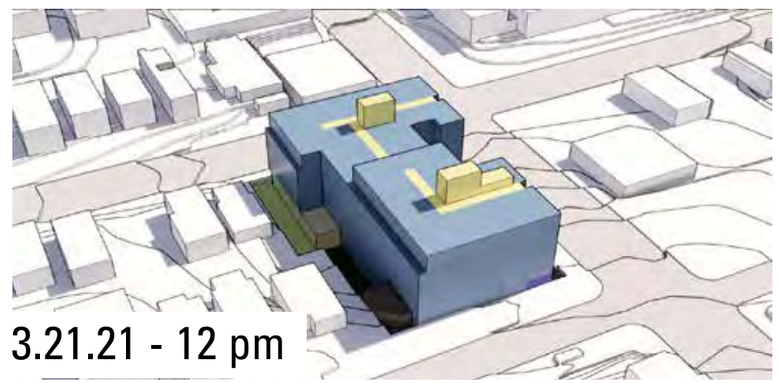
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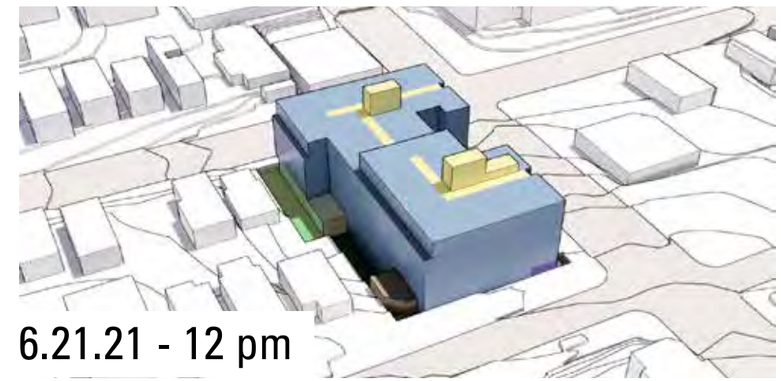
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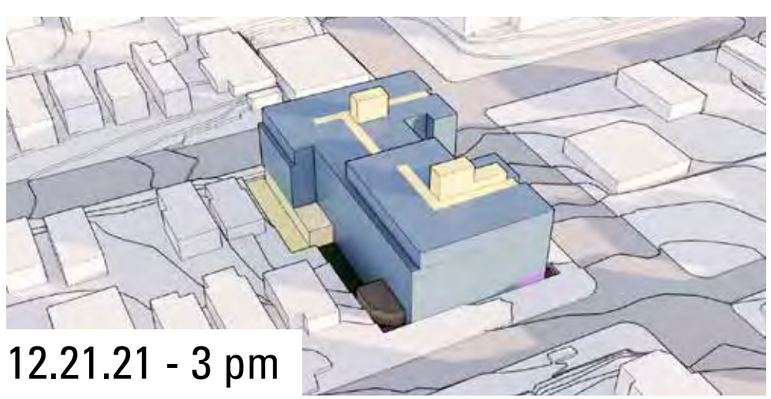
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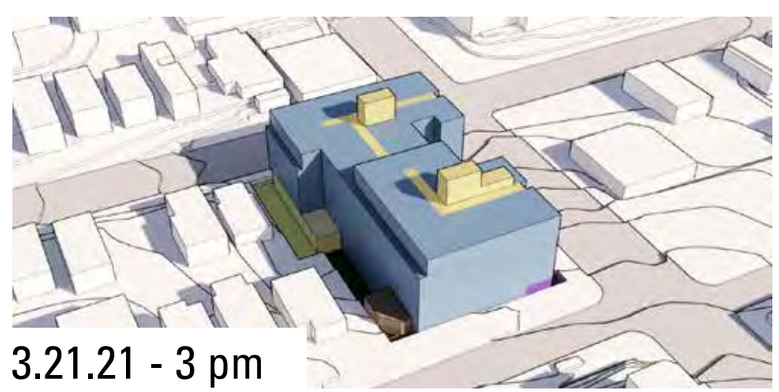
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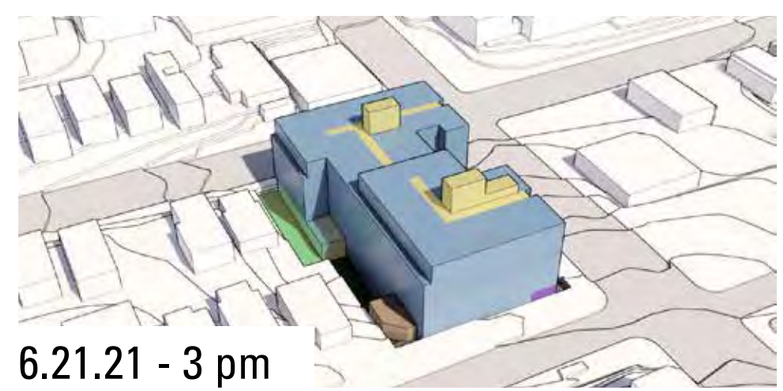
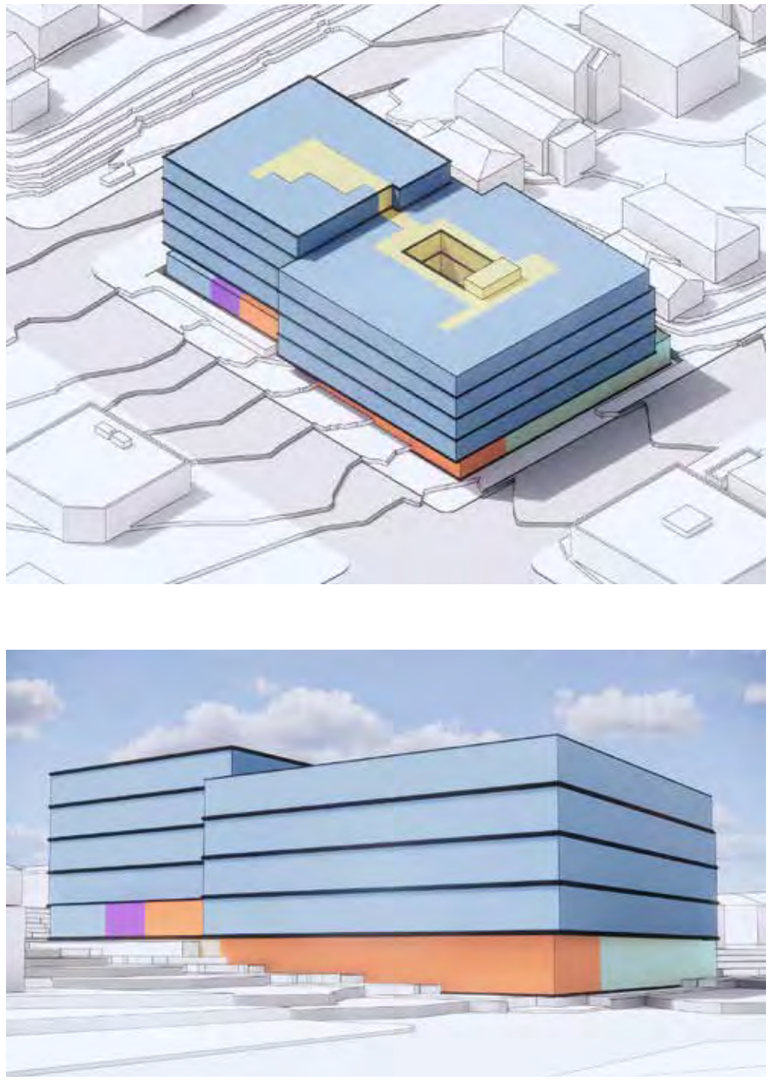
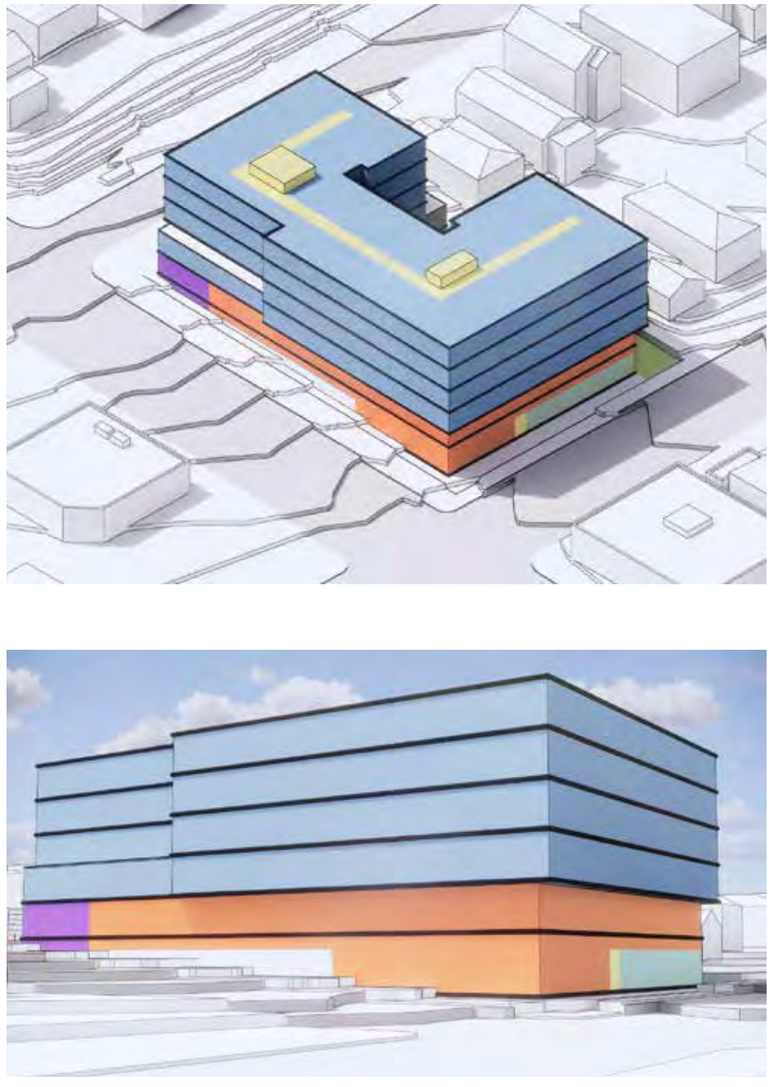

6.21.21 - 3 pm

concept comparison

preferred





concept 1 | square donut

concept 2 | north-facing courtyard

concept 3 | south-facing courtyard

PREFERRED MASSING DEVELOPMENT

Acer HOUSE

afrofuturism

Afrofuturism, as applied to architecture, is a form, color and material design expression at the intersection of traditional aesthetics of the African diaspora and modernism. The term "Afrofuturism" was coined by Mark Dery in 1993 but was predated in the spirit of enslaved Africans and the lives of their descendants. The first Afrofuturists envisioned a society free from the bondages of oppression – both physical and social.

It is not likened to be nominal like "Modernism", Afrofuturism is the larger movement in which architecture participates. In its programming and narrative, rather than simply in form or ornament, Afrofuturist architectural works contribute to the shift of the projected future.

Afrofuturist architecture has the power to revitalize Afrocentric communities and their view of the future. It also has the power to change Western perceptions of the African presence in the projected future. Afrofuturism can be defined as a broader, more inclusive vision for both local and global futures.

The aesthetic embodies an optimistic and exultant spirit. It is the antithesis of the strict minimalization and efficiency of modernism. It's expression is beyond applique and murals. It is representative of Black culture in how spaces are organized with relationships to nature, socialization and a shared value of community. The Afrofuturist aesthetic is replete with its own precedents of form-giving inspiration, color palate and materiality.

The Afrofuturist architecture featured in hit movie Black Panther was inspired by Iraqi-British architect Zaha Hadid. According to production designer Hannah Beachler, she visited buildings by the late architect while researching for the film. "That's what I wanted people to feel for the modern architecture in Black Panther," she said.

The film has triggered renewed interest in Afrofuturism: a cultural movement that combines African and African diaspora culture with technology and science fiction elements.

The work of contemporary Burkina Faso architect, Francis Kéré, as the designer of last year's Serpentine Pavilion, demonstrates how traditional building methods and materials can be combined with high-tech engineering.

Kunlé Adeyemi, a Nigerian architect, founded his own studio NLÉ in 2010. Shortly after, he made a big impression with his design for a floating school, designed to facilitate education in African regions that, due to flooding, have little permanent infrastructure. He is also now working on plans to build a school in Tanzania that combines regional traditions with contemporary learning.

Rwandan architect Christian Benimana runs the office of Mass Design Group, a research-focused architecture studio that frequently teams up with local governments and NGOs on socially driven projects. He is also the director of the African Design Center, an organization that is championing the next generation of designers from the continent.

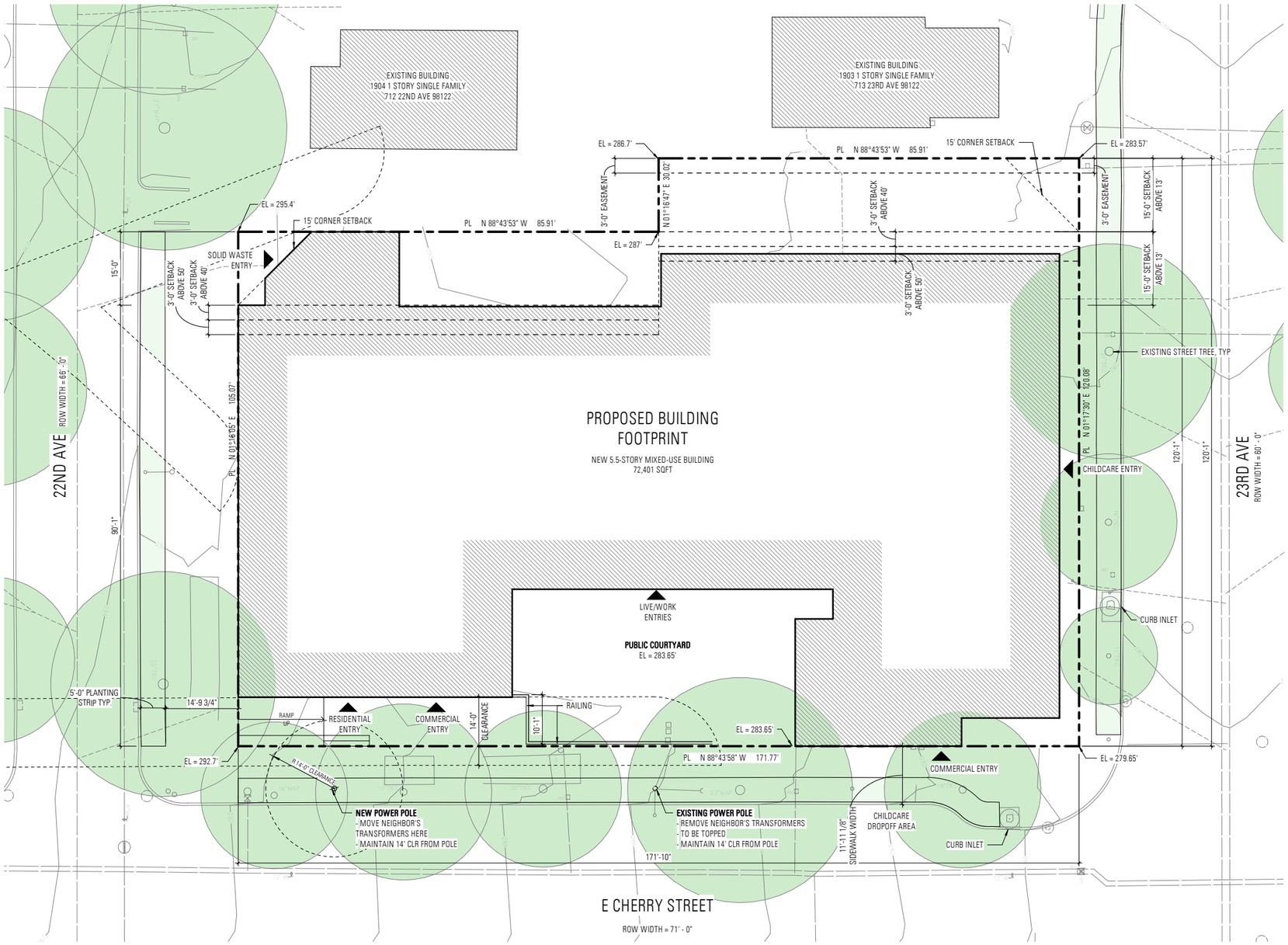
parti

afrofuturism inspiration

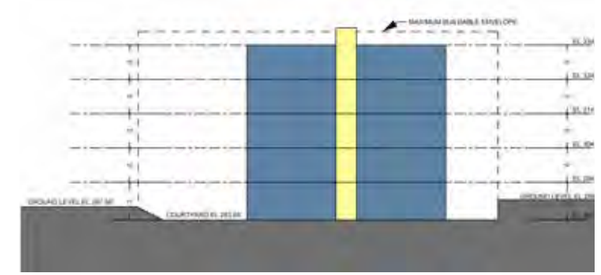
PREFERRED MASSING DEVELOPMENT

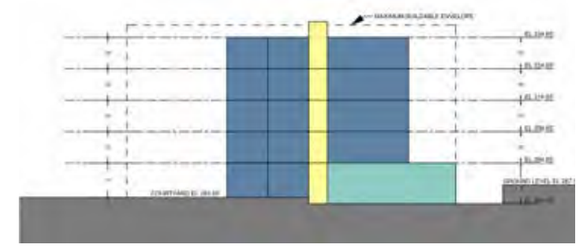
Acer HOUSE

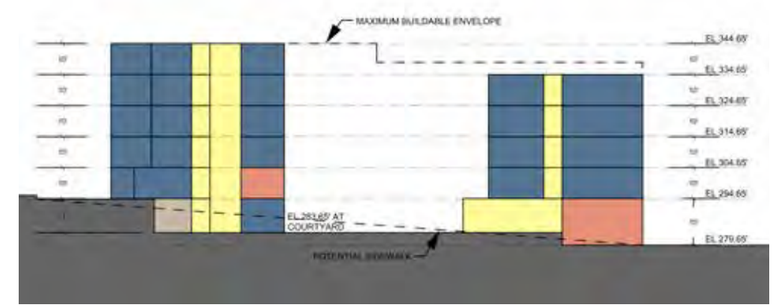
site plan



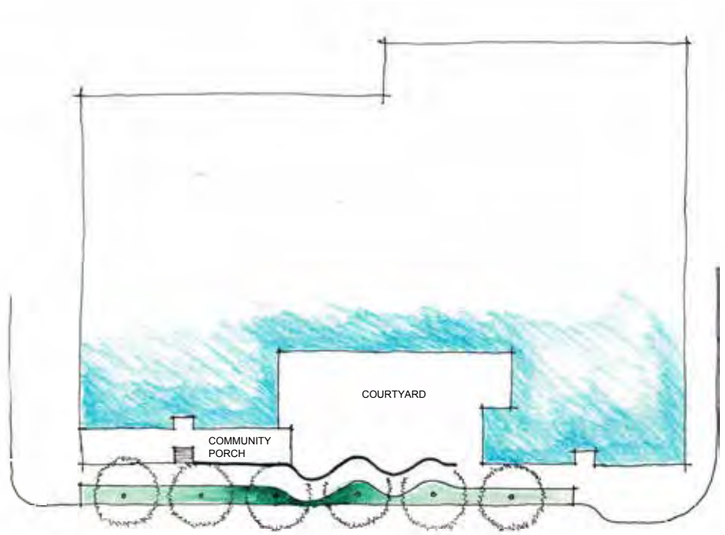
diagrammatic sections

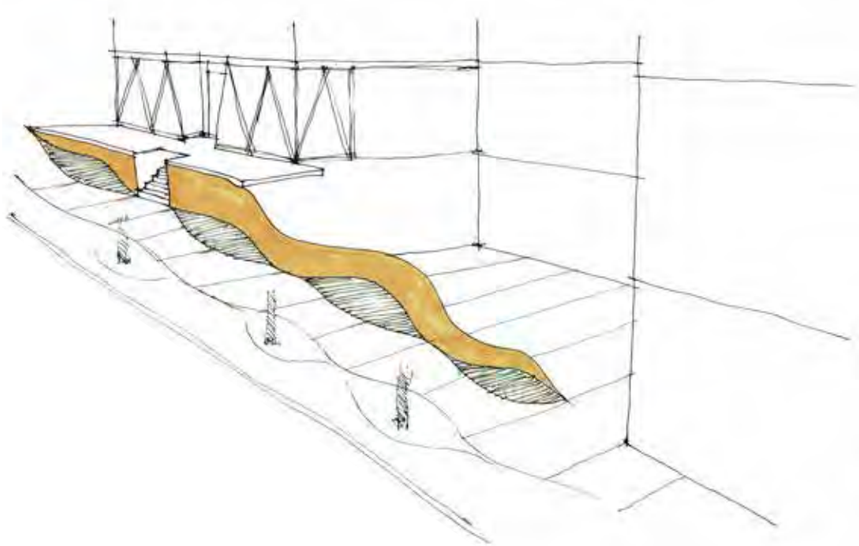






community porch + streetscape





architectural precedents

Garfield Community Center

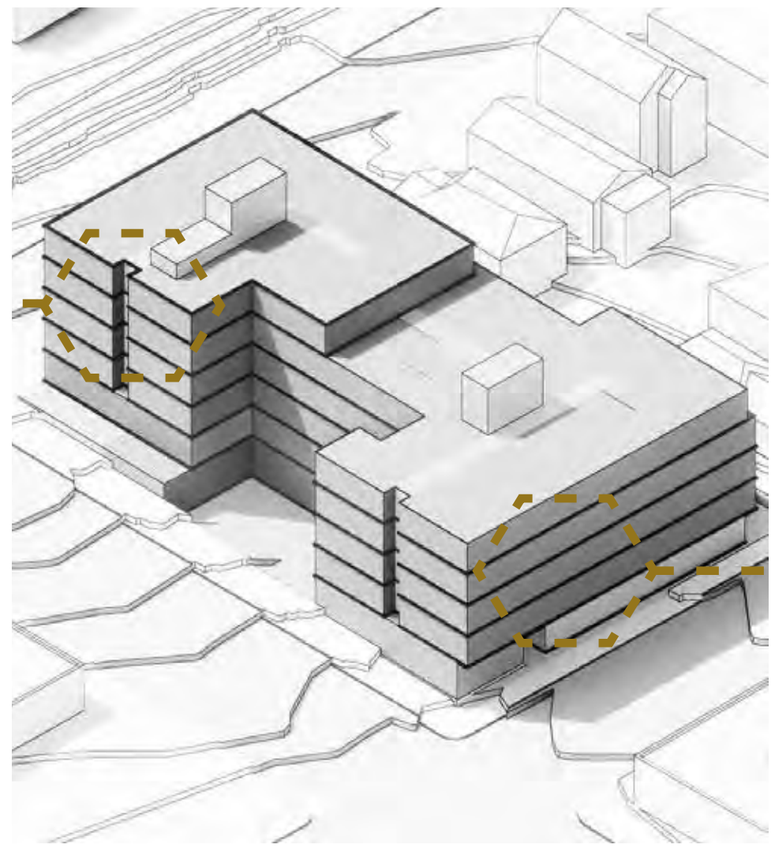
403 13th Ave

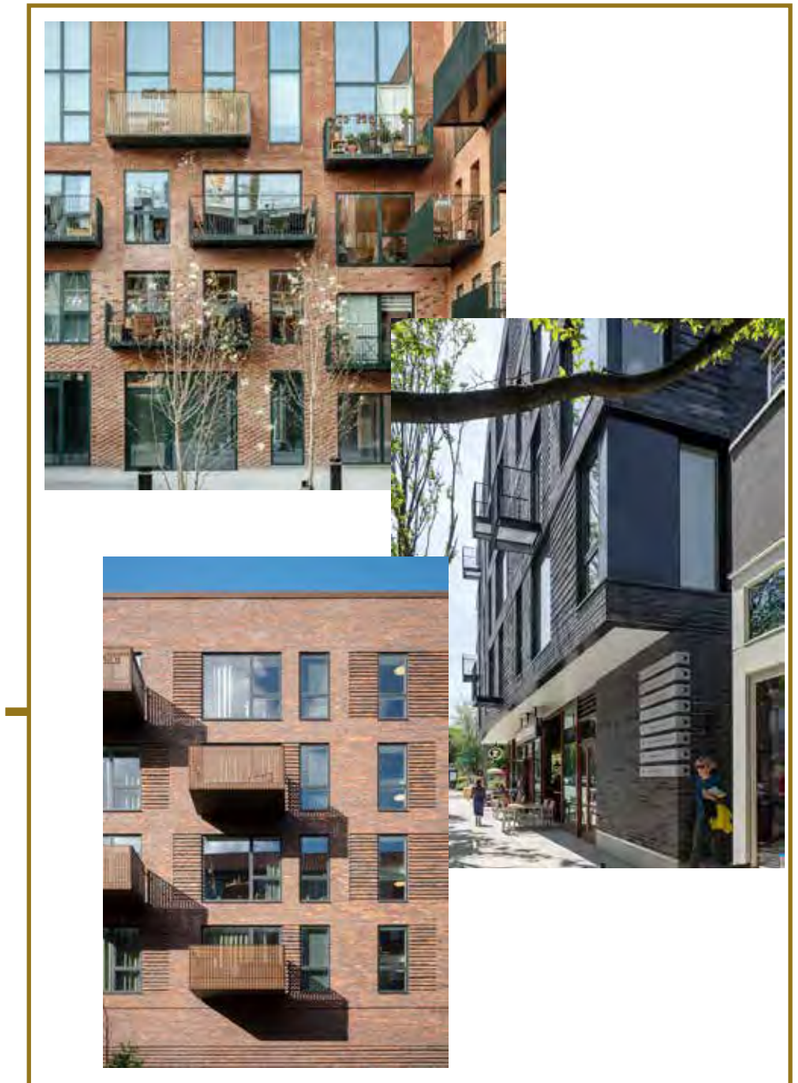
Shea Apartments

525 Federal Way

architectural applications

fenestration

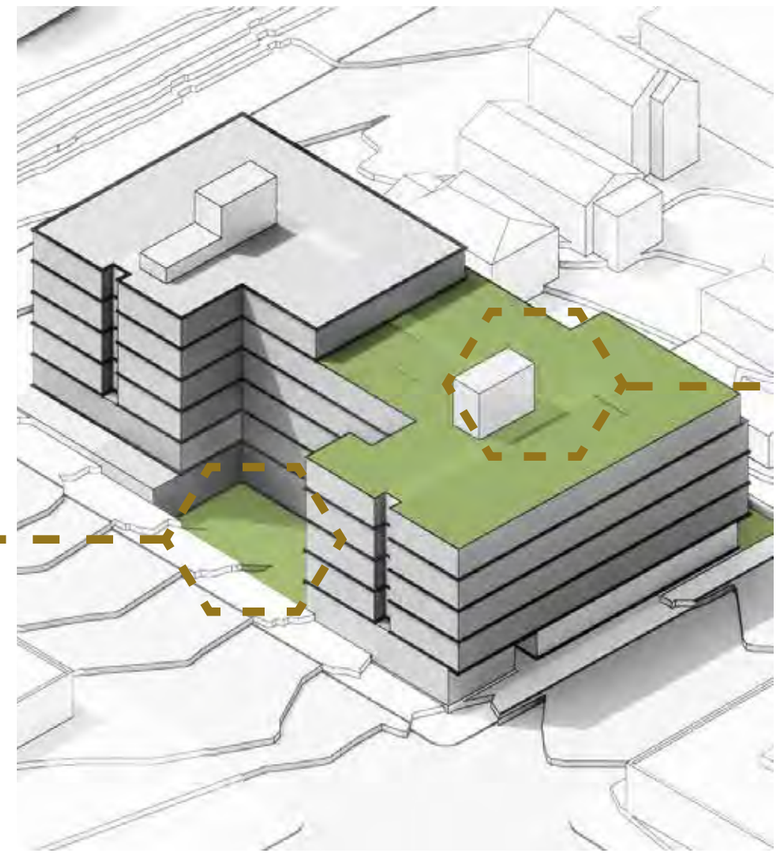




balconies

landscape design concept

courtyard



rooftop deck + urban farm

DEPARTURES SUMMARY

Acer HOUSE

DEPARTURES

DEPARTURE NUMBER	MASSING CONCEPT	CODE REQUIREMENT	DEPARTURE REQUEST	DEPARTURE RATIONALE	RELEVANT DESIGN GUIDELINES
1	2 + 3	23.47A.005.1 - In all NC and C zones, residential uses may occupy, in the aggregate, no more than 20 percent of the street-level street-facing facade	Massing concept 2 has 56% residential on 22nd Ave and 17% residential on E Cherry St. Massing concept 3 has 100% residential uses on 22nd Ave and 54% residential on E Cherry St.	**add rationale + diagram*	
2	2 + 3	SMC 23.47.014.3 - An upper-level setback is required along any rear or side lot line that abuts a lot in a single-family zone, that is across an alley from a lot in a single-family zone, or that abuts a lot that is zoned both commercial and single-family if the commercial zoned portion of the abutting lot is less than 50 percent of the width or depth of the lot as follows: b. For each portion of a structure above 40 feet in height, additional setback at the rate of 3 feet of setback for every 10 feet by which the height of such portion exceeds 40 feet	The proposal does not to step back the building above 40 ft.	The additional massing does not significantly impact the shade/shadow bulk. **add rationale + diagram*	
3	3	SMC 23.47A.008.A.3 - Street-level, street-facing facades shall be located within 10 feet of the street lot line, unless wider sidewalks, plazas, or other approved landscaped or open spaces are provided.	The proposal features a 32 ft deep and 57 ft wide public courtyard mid-block on E Cherry St, with landscaping and seating.	**add rationale + diagram*	
4		*13 ft floor-to-floor minimum height requirement for street-level street-facing non-residential uses*		**add rationale + diagram*	
5		*30 ft minimum average depth requirement for non-residential uses*		**add rationale + diagram*	

ACER HOUSE LLC

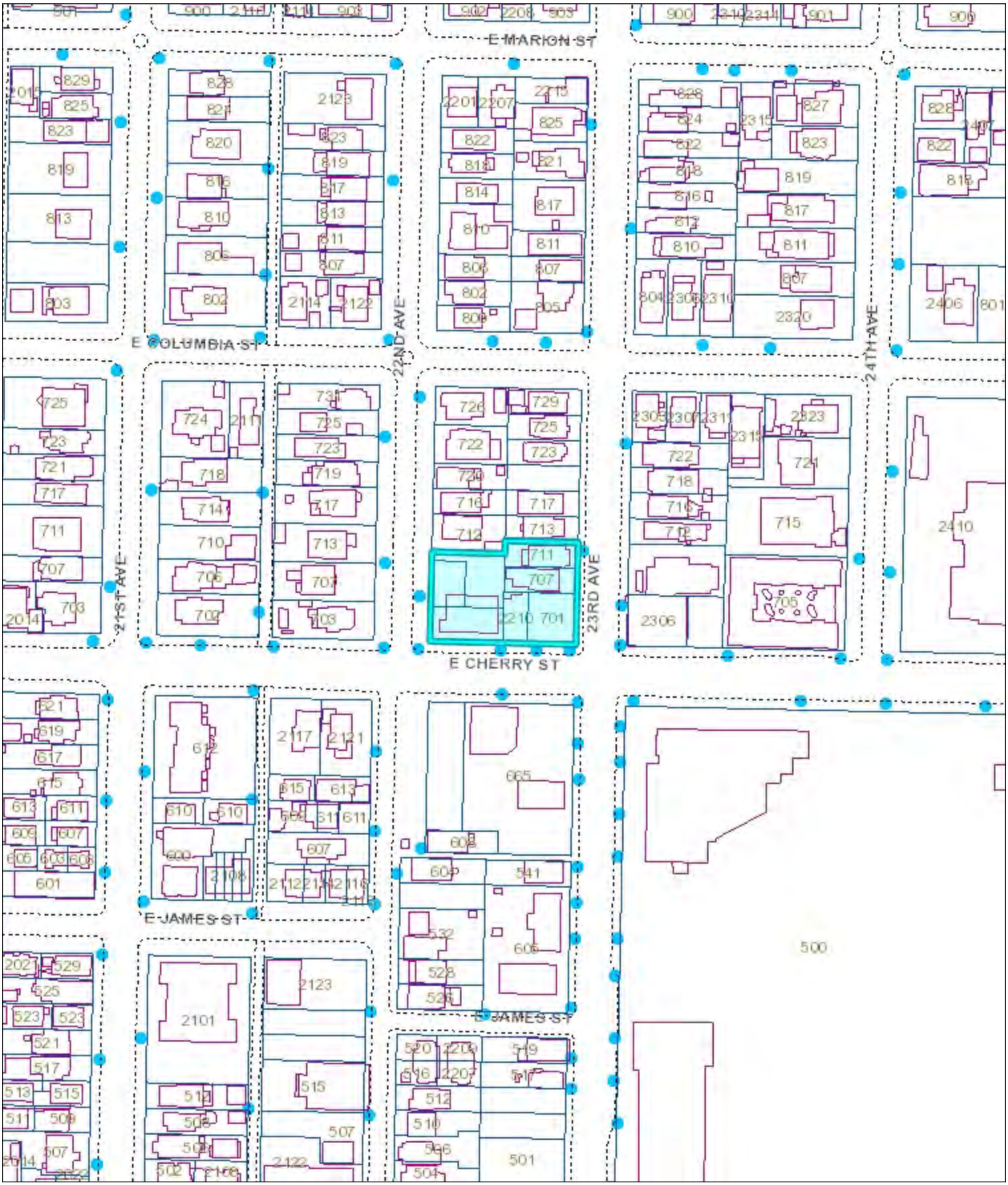
MIMAR STUDIO
PLANNING & DESIGN

schemata
workshop

3037717-EG, DR

2210 E CHERRY ST
MAP 112

Feet
0 150



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Coordinate System: State Plane, NAD 83-91, Washington North Zone | Vertical Datum: North American Vertical Datum of 1988 (NAVD88). Map produced by DPD GIS Viewer (DPD - IT GIS).

4/9/2021

City of Seattle
Department of Construction and Inspections
700 Fifth Avenue, Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019
(206) 684-8850

SDCI Project Number

TBD

Statement of Financial Responsibility/ Agent Authorization

Project Address	701 23rd Ave, Seattle, WA 98122

NAME AND ADDRESS OF FINANCIALLY RESPONSIBLE PARTY (Required)

A. Name of Individual or Entity *(Company, Partnership, etc.)* Assuming Financial Responsibility	Acer House LLC
B. Name of Individual Signing on Behalf of an Entity *(Company, Partnership, etc.)*	Benjamin Maritz
C. Financially Responsible Party Relationship to Property	☑ Property Owner ☐ Property Lessee ☐ Property Contract Purchaser ☐ Public Agency ☐ Service Requestor (check only if request does not directly relate to the development of real property i.e. request for interpretation, legal building site letter)
D. Mailing Address *(of individual signing statement)*	1112 Federal Ave E
E. Telephone *(of individual signing statement)*	206 565 6455
F. Email *(of individual signing statement)*	ben@grtexp.co

Individual Declaration of Financial Responsibility *(must match the individual's name listed in "A" above)*

I _____(printed name) declare that I am the _____(relationship to project or service request) and that I am responsible for payment of all fees associated with this project or other request to SDCI requiring payment of fees, including all hourly or other fees which may accrue during the review and/or post-issuance whether the permit is issued or whether the application is canceled or denied before the permit is issued.

Signature Date

Entity Declaration of Financial Responsibility *(must match the individual name in "B" above and have authority to bind entity named in "A" above)*

I Benjamin Maritz *(printed name)* declare that in my capacity as Manager *(position within entity - ie* manager, *CFO, etc)* for Acer House LLC *(financially responsible entity named in "A" above)* I have the authority to bind the Financially Responsible party named above to payment of all fees associated with this project or other request to SDCI requiring payment of fees, including all hourly or other fees which may accrue during the review and/or post-issuance whether the permit is issued or whether the application is canceled or denied before the permit is issued.

2/8/2021

Signature Date

AGENT AUTHORIZATION (Optional):

I hereby authorize the individual named below to act as the primary contact (aka primary applicant) for this project. This individual is not responsible for the payment of fees.

Primary Applicant Name: Sarah Haase

Primary Applicant Phone: 206 285 1589

Primary Applicant Email: sarah@schemataworkshop.com

Primary Applicant Address: 1720 12th Ave, Seattle, WA 98122

July 19, 2021

CONTRACT REZONE APPLICATION
Acer House – SDCI # 3037717
2210 E Cherry St

Dear Mr. Sachs,

It is with great pleasure that we submit the attached application for a Contract Rezone for the Acer House project at the corner of Cherry and 23rd in the Central Area.

Our project has the specific goal of establishing a new standard of equitable, community-oriented development. Acer House is an equitable development that is responsive to the cultural legacy of the Central Area and addresses immediate needs of the community.

Acer House will provide 107 residential units and 7 retail units, a restaurant and a childcare space, a community courtyard and porch, bringing 'eyes' to 23rd and Cherry and a rooftop food garden.

Acer House demonstrates that truly equitable, community focused development is possible. To this end, Acer House has made the following commitments:

- **Affordability**: All units affordable below 100% AMI, and participation in MFTE and MHA
- **Zero displacement**: All existing on-site retail and residential tenants offered affordable spaces
- **Anti-racist vendor selection**: supporting minority and women-owned businesses
- **'Afro-futurist' design theme**: celebrating Black excellence in a way that is inclusive for all
- **Local wealth creation**: equity partnerships with land-owners and local neighbors
- **SEED certification**: Ensuring sustainability on social and environmental impacts

Achieving these goals requires more scale than the current zoning offers. We are requesting a height increase from NC1-40 to NC1-55. We are aware that a taller building will have impacts on shadows in the area, but we feel these are far outweighed by the positive benefits we bring.

Acer is in an inequitably zoned commercial "node" that runs along E Cherry from 22nd to 28th. The East portion, largely White-owned, was up-zoned to 55' in 2019. The Western portion, largely Black-owned was not up-zoned in 2019. Similarly, the parcels at 23rd and Union and 23rd and Jackson, which have parcels owned by large White-led developers, were up-zoned to 75'. None of the land-owners immediately around Acer were consulted about the 2019 rezone.

This is an opportunity to right this inequity in a way that will make a meaningful positive impact.

Sincerely,

Benjamin Maritz
Arboreal
Co-developer, Acer House

Kateesha S. Atterberry

Kateesha Atterberry
Urban Black
Co-developer, Acer House

Rezone Application Submittal Information per TIP #228

This property consists of 7 parcels to be redeveloped into one multifamily mixed-use project located at 23rd and East Cherry Street Seattle, WA 98122, together called 2210 E Cherry.

1. Project number.

3037717-EG; 3037185-LU

2. Subject property address(es).

704 22nd Avenue, 708 22nd Avenue, 700 22nd Avenue, 2210 East Cherry Street, 701-705 23rd Avenue, 707 23rd Avenue, 711 23rd Avenue -- Seattle, WA 98122

3. Existing zoning classification(s) and proposed change(s).

The 7 parcels called 2210 E Cherry are currently zoned NC1-40. This proposal is to rezone all 7 parcels to NC1-55, with the appropriate M suffixes.

4. Approximate size of property/area to be rezoned.

19,343 square feet

5. If the site contains or is within 25 feet of an environmentally critical area, provide information if required pursuant to SMC 25.09.330 and CAM 103B, Environmentally Critical Area Site Plan Requirements.

Site is not within 25 ft of an ECA per SDCI GIS map.

6. Applicant information:

Sarah M. Haase
Schemata Workshop
1720 12th Ave
Seattle, WA 98122

a. Property owner or owner's representative:

Acer House LLC
Attn: Benjamin Maritz
1112 Federal Ave E
Seattle, WA 98102

7. Legal description of property(s) to be rezoned (also include on plans – see #16, below).

Address	Parcel #
704 22nd Avenue	9126101681
708 22nd Avenue	9126101685
700 22nd Avenue	9126101695
2210 East Cherry Street	9126101706
701-705 23rd Avenue	9126101705

707 23rd Avenue	9126101725
711 23rd Avenue	9126101730

PARCELS #912610--1695, 912610--1685 & 912610--1681
(PER STEWART TITLE INSURANCE COMPANY ORDER NO. 820537, DATED JUNE 30, 2020)

PARCELS A, C, AND C, CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 3032095-LU, RECORDED UNDER RECORDING NO. 20181024900003, RECORDS OF KING COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF KING STATE OF WASHINGTON.

PARCEL #912610--1705
(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523432, DATED JULY 15, 2020)

THE EASTERLY 2/3 OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1725
(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547292, DATED AUGUST 07, 2020)

LOT 13, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1730
(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547283, DATED AUGUST 07, 2020)

LOT 14, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1706
(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523524, DATED JULY 15, 2020)

THE WEST ONE-THIRD OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

8. Present use(s) of property.

The project site is comprised of 7 parcels along East Cherry Street flanked by 22nd and 23rd streets. The site consists of 3 vacant lots which include 2 residential buildings, and 2 commercial buildings. Current tenants of the property include a barber shop and two residential units on Parcel D; a flower

shop and two vacant commercial spaces on Parcel E; and single-family residences on Parcel F and Parcel G. Exterior areas of the Property include landscaping on Parcels F and G, and overgrown vegetation and trash on the vacant Parcels A, B, and C.

Vacant Parcels A, B, and C previously were the site of the Cherry Hill Baptist Church, the structure of which was demolished by a different developer who had proposed a townhouse project on the site and then sold it to Acer House LLC.

9. What structures will be demolished or removed?

4 existing structures are proposed to be demolished. The first located, on parcel D, is a 2 story, mixed use retail space with shop fronts along East Cherry Street and a residential unit upstairs. The second located, on parcel E, is a single-story retail building with a shop on the corner of 23rd Street and E Cherry Street, and 2 vacant spaces along E Cherry Street. Two single family residences on parcels F and G are also proposed to be demolished.

As discussed elsewhere, Acer House is committed to a policy of no displacement. All residential and commercial tenants on the property will be offered affordable rentals in the new building. Temporary accommodation will be arranged by Acer House, and relocation assistance, if applicable, will be provided through the city TRAO program.

10. What are the planned uses for the property if a rezone is approved?

A multifamily building of 107 units which will provide more affordable housing options in this neighborhood. 20% of units will be affordable at levels prescribed by the MFTE program ranging from 40%-85% AMI[1]. Acer House will provide "on site performance" under MHA, meaning an additional 11% of the units will be affordable to 40-60% AMI[2]. 6,254 square feet of retail space including a childcare, an all-day restaurant, and at least 4 units for local, community-based small businesses with priority access given to the current tenants to avoid displacement. 1,932 square feet of publicly accessible open courtyard space, which will provide an accessible route and useable outdoor space for the retail spaces.

The requested rezone would provide the underlying zoning needed to complete the development proposal that advances the neighborhood goals and the City's focus on creating more housing and on equity. Not only has the Acer House project undergone extensive review through the Early Design Guidance process, Acer House has also voluntarily reached out to the community outside of the EDG process, including three community meetings, door knocking in the neighborhood, and regular consultation with the Central Area LURC. Through this extensive outreach, the applicant has identified potential negative impacts and mitigated the same, as identified in item 14 below.

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[1] Under SMC 5.74, MFTE compliant SEDUs are 40% AMI, studios are 60%, one bedrooms are 70% and two bedrooms are 85%. The specific mix of units in the program at Acer is not yet known.

[2] Under SMC 23.58C, following the rezone the Acer site will be in the "M2" category. Since it is in an MHA "High Zone" the required ratio of affordable units is 11%. Most Acer units are over 400sf and will be 60% AMI under MHA. Some units are below 400sf and will be 40% AMI. The specific mix of units in the program at Acer is not yet known.

11. Does a specific development proposal accompany the rezone application? If yes, please provide plans.

Yes, we have a Master Use Permit 3037185 and Construction Permit 6804313 in review with SDCI.

12. Reason for the requested change in zoning classification and/or new use.

The rezone would provide enough scale for the Acer project to execute its stated mission of equitable development and would make meaningful progress towards meeting the goals of the Central Area neighborhood plan.

55' height allows for a five-story wood-frame construction building, which has significantly lower per-unit costs than a four story, 40' version. These lower unit costs permit an ambitious program of equitable development, detailed below, which we believe will both provide benefit to the local community but also set an example for other developers in the City of Seattle and beyond.

<u>The rezone will also correct a historical inequity under which portions of the 23rd and Cherry "node" had their height increased to 55' but others did not.</u> The 23rd and Cherry node runs along E Cherry from 22nd to 28th. The East portion, with many White-owned parcels, was up-zoned to 55' in 2019. The Western portion, largely Black-owned, was not up-zoned in 2019.

This inequity has strong echoes of previous policies of redlining which intentionally excluded Black families and investors from the most lucrative areas for real estate investment. None of the land owners immediately around Acer were consulted about the 2019 rezone, and all were surprised to learn the eastern portion of the street had higher zoning.

Similarly, while 23rd and Cherry is a "node" given the same importance in the Central Area planning documents, the nodes at 23rd and Union and 23rd and Jackson, which are owned by large White-led developers, were up-zoned to 75'. Unsurprisingly, the Union and Jackson nodes today are hotbeds of development.

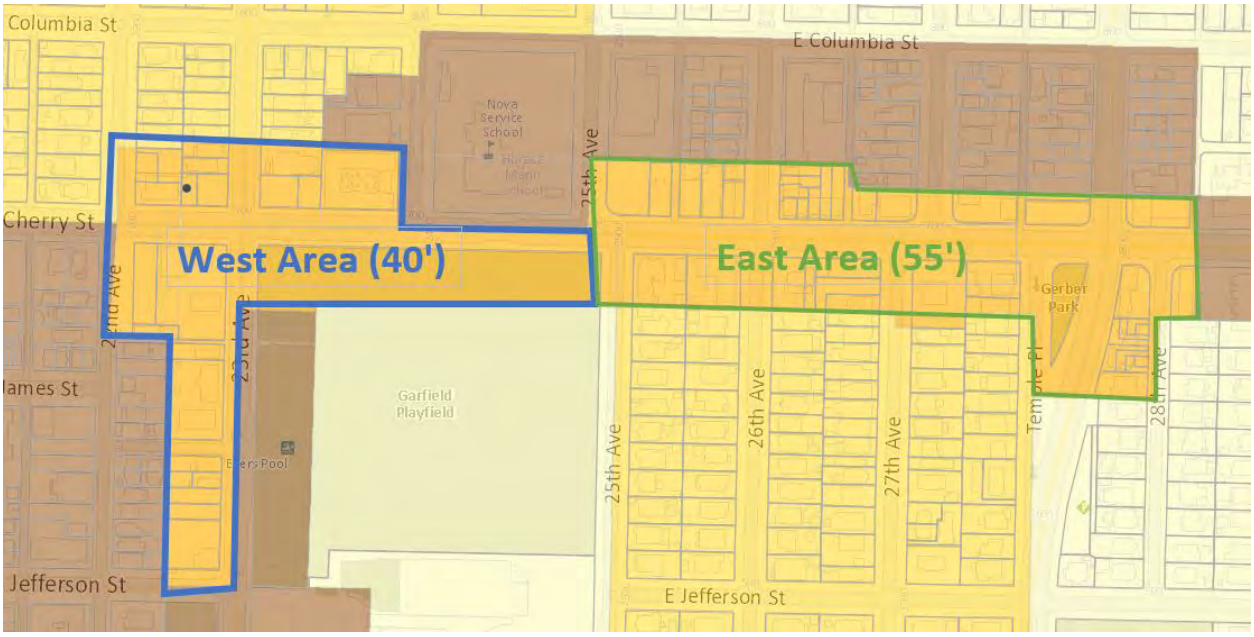

Figure 1. Map of 23rd and Cherry "commercial node", with West (40' height limit) and East (55' height limit) areas shown

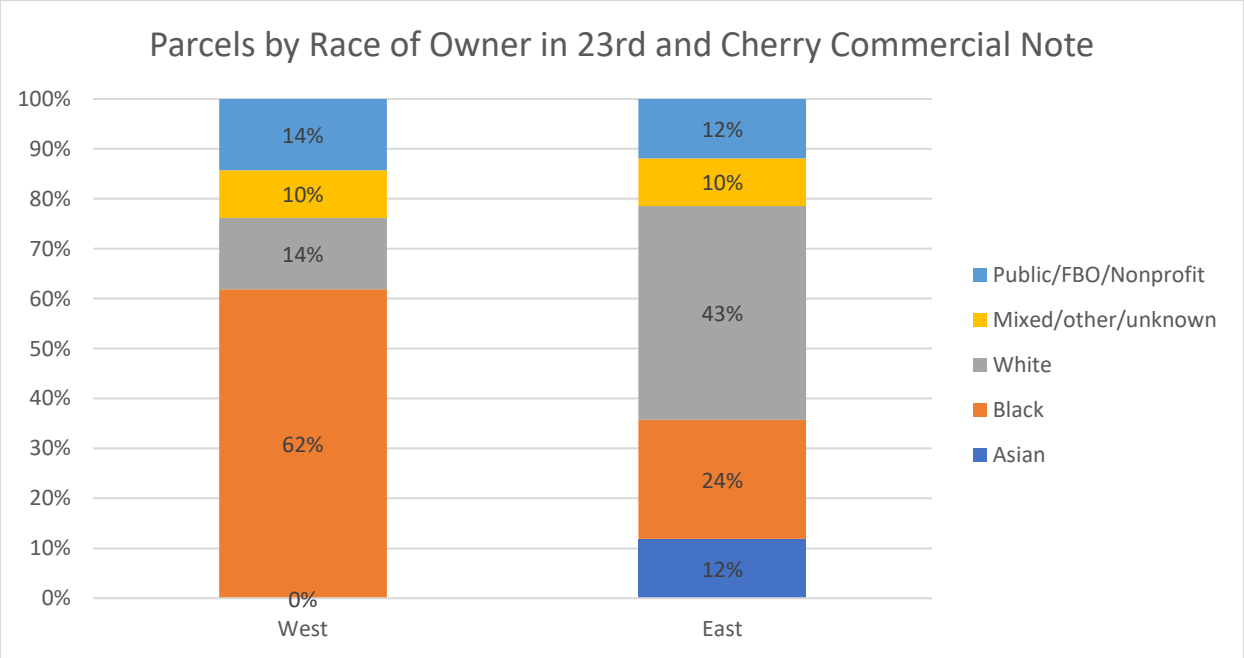

Figure 2. Chart of parcels in the 23rd and Cherry node, by race of owner, West vs. East[3]

13. Anticipated benefits the proposal will provide.

[3] Based on parcel-by-parcel analysis by applicant. Source file available at this link: https://netorgft6278573-my.sharepoint.com/:x:/g/personal/ben_grtexp_co/EQAjvWIaCDpPjtnHgspAQJEBB0OdxKEzdMnRVN-75iwMsQ?e=eQ6qo3

The rezone to 55' height will have the immediate impact of adding 24 more residential units, of which 8-9 will deeply affordable under MHA and MFTE. Units on the additional floor will be offered first on an affordable basis to the 10-15 current residential tenants on the Acer site, most of whom are Black, and many of whom are immigrants[4].

In addition to these additional units, the scale will allow Acer to implement our strategy of equitable development, including many items that are simply not possible in a smaller building. These benefits include:

- **Maximum affordability: All units affordable below AMI, and participation in MFTE and MHA.** While MFTE is likely viable without the rezone, MHA on site performance is likely not.
- **Zero displacement: all retail and residential tenants offered spaces at affordable rents.**
    - The units in the top floor which the rezone is adding will be offered first to residents on the current site at affordable rents, which in many cases may be lower than their current rent. The developers of Acer House will secure temporary housing during construction and pay all moving costs to and from the site.
    - The retail units will also be offered to current businesses first, also at affordable rents. Acer House is exploring private and public sector partnerships to make these commercial units permanently affordable through condominiumization and commercial ownership.
- **Anti-racist vendor selection: supporting minority and women-owned businesses.** Acer has committed to including at least one minority or woman-owned firm (MWBE) in the final round of procurement for each of our 30+ vendor categories. So far, MWBE business represent over 80% of all procurement at Acer.
- **'Afro-futurist' design theme: celebrating Black excellence in a way that is inclusive for all.** Acer has partnered with Donald King, a celebrated local Black architect to develop a design theme for Acer which celebrates the Black heritage of the Central Area and highlights the potential of its Black neighbors. Afro-futurism is an emerging design trend which has not been widely applied to architecture, making Acer House a leader nationally. The early designs for Acer House, which will go through Seattle's design review process, are attractive and fit well within the local design vernacular.
- **Local wealth creation: equity partnerships with land-owners and local neighbors.** Historically, Real Estate has produced tremendous wealth but has excluded many disadvantaged people, including the traditionally Black residents of the Central Area who were victims of redlining and other injustice. Acer House is building wealth in the community in multiple ways:
    - All land owners on the site are equity partners in the project. A portion of the income from the sale of their land will be reinvested back into the project, keeping them tied to the neighborhood and allowing them to profit from the project long after they sell their house or building. They have joined our weekly project calls and have made many valuable contributions.
    - We will be opening up a crowd-funded co-investment vehicle to allow all community members including immediate neighbors to invest in Acer House, support our mission,

[4] Acer House will be in compliance with the City's First-in-Time ordinance

and earn a financial return as a real estate investor. This fund will be regulated by the SEC and will be affirmatively marketed to people of color with roots in the Central Area.

- **SEED certification to ensure our sustainability on social and environmental impacts.** Acer House will be the first privately funded SEED development in Seattle. SEED stands for "Social Economic Environmental Design," and represents an approach which prioritizes environmental sustainability, affordability, and community benefit.

14. Summary of potential negative impacts of the proposal on the surrounding area.

The potential negative impacts of going from 40' to 55' are limited. In our extensive conversations with neighbors, community groups, the Central Area LURC and the Central Area Design Review Board we heard three concerns:

Shadow impacts. The incremental shadow impact from an additional 15' of building height is very small. There are two single family houses immediately to the north which will have sun partially blocked by sun even by a 40' building.

- The 40' building also allows a 8-10' mechanical penthouse, so the total height increase from the rezone is only 5-7'
- The house most affected, to the northwest, is already largely covered in shade by large street trees, as can be seen in Figure X

Figure 3. Shadows cast on darkest day of the year in a 40' height model (left) vs. a 50' height model (right)[5]

[5] Full shadow study on page G130 of the MUP packet. 55' model will have no penthouse in the western roof section

Figure 4. Photo of house to the northwest of the Acer site, showing the shade provided by an existing tree. Photo taken June 2021

Parking Impacts. The project proposes zero parking stalls; if it were proposed at a 40-foot height, it would also propose zero parking stalls. The potential impact due to parking from the small number of additional units in the fifth floor is very small, and will be further studied through a traffic impact analysis. Parking is not required by code at the Acer site, given it is in an Urban Village with frequent transit. Car free living supports many of the City's goals, not least reducing carbon emissions

- Based on other similar projects, we anticipate about 25% of tenants will have cars.
- Seattle has passed "peak car" and as such the overall number of cars in the city will be declining as people move to a car free lifestyle, freeing up parking in the neighborhood
- Most of the houses in the immediate area have off-street parking and/or garages
- A reduction of built parking reduces project costs and therefore reduces rents/makes the project more affordable. The connection between parking requirements and affordability of multifamily units is well-documented.

Height, bulk, and scale impacts; aesthetics, "neighborhood character" impacts. This claim made by some neighbors is highly subjective, and is consistent with objections to development that have

historically excluded People of Color and led to rapid escalation in housing costs, to the benefit of homeowners and the detriment of renters.

- The "bulk and scale" of the Acer project is identical to that which is allowed by right on the eastern side of the 23rd and Cherry node, in a NC1-55 zone that also abuts an RSL zoned area of houses
- The Acer project is across the street from two privately held parcels which are NC1-40, and which can support buildings that are four stories in height, very similar to what we propose (the current Coyote Central facility and the AM/PM gas station)
- The design guidelines for 23rd and Cherry do call for "smaller scale" relative to the larger nodes at 23rd / Union and 23rd / Jackson, but those nodes are zoned for 75', meaning the requested 55' zoning is still going to be smaller scale
- The project design team is committed to taking many actions to moderate the visual impact of the size of the building, including pulling the mass back from the street, changing building materials at upper levels, and generally ensuring high quality attractive design
- Acer will go through the full Design Review process, intended to mitigate height bulk and scale, and aesthetic impacts.

Renters in the area have noted that all of the homeowners in the immediate vicinity have seen increases in property values of 200% or more in the past decade due to underproduction of housing in the area.

15. List other permits or approvals being requested in conjunction with this proposal (e.g., street vacation, design review).

No special permits or approvals are necessary other than code-required processes for a project this scale. Those processes include: SEPA determination, design review approval, and zoning approval. A Building Permit, as well as various other civil permits, will be required to construct the proposal.

16. Submit a written analysis of rezone criteria (see SMC 23.34.008 and applicable sections of 23.34.009-128). Include applicable analysis locational criteria of 23.60.220 if a shoreline environment redesignation is proposed.

Please see Appendix A

17. Provide six copies of scale drawings with all dimensions shown that include, at a minimum, existing site conditions, right- of-way information, easements, vicinity map, and legal description. See SMC 23.76.040.D, Application for Council Land Use Decisions for other application materials that may be pertinent. Plans must be accompanied by DPD plans coversheet.

Please see MUP packet

Appendix A – Response to Rezone Criteria

Response to Tip Question #16: *Submit a written analysis of rezone criteria (see SMC 23.34.008 and applicable sections of 23.34.009-128). Include applicable analysis locational criteria of 23.60.220 if a shoreline environment redesignation is proposed.*

Applicable SMC sections include

- 23.34.008 - General rezone criteria
- 23.34.009 - Height limits of the proposed rezone

Code citations are printed below in ***bold italics***

23.34.008 - General rezone criteria

A. To be approved a rezone shall meet the following standards:

1. In urban centers and urban villages the zoned capacity for the center or village taken as a whole shall be no less than 125 percent of the growth estimates adopted in the Comprehensive Plan for that center or village.

2. For the area within the urban village boundary of hub urban villages and for residential urban villages taken as a whole the zoned capacity shall not be less than the densities established in the Growth Strategy Element of the Comprehensive Plan.

Analysis

- Acer House is in the 23rd and Union-Jackson Residential Urban Village (RUV)
- Zoned capacity for the Urban Village is **4,295 dwelling units**[6], and the growth estimate in the 2035 comprehensive plan, adopted in 2016 and amended in 2020 is **1,600 units**[7]. Therefore, the zoned capacity is not less than 125 percent of the growth estimates. **The proposal meets this criterion.**
- The densities established for a RUV in the Growth Strategy Element of the 2035 Comprehensive Plan is **12 dwelling units per gross acre**[8]. The 23rd and Union-Jackson RUV is **516 gross acres**[9] and has zoned capacity of **9,746 dwelling units** (5,451 existing and 4,295 capacity)[10], or **18.9 dwelling units per acre**. Therefore, the zoned capacity for the Residential Urban Village is not less than this density established in the 2035 Comprehensive Plan. **The proposal meets this criterion.**

B. Match Between Zone Criteria and Area Characteristics. The most appropriate zone designation shall be that 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.

[6] Page 424 of the Council Adoped Comprehensive Plan dated November 2020
[7] Page 417 of same
[8] Page 25 of same
[9] Page 422 of same
[10] Page 424 of same

Analysis

- Our requested zoning is **NC1-55,** which is a change only in height from the current NC1-40 zoning.
- NC1, as defined by SMC 23.34.074, is well suited to the Acer House objectives due to the desired function of providing a small shopping / retail area on the ground floor that serves the local neighborhood and the locational criteria of being in an urban village but adjacent to low density residential areas. **The Proposal Meets this criterion.**

C. Zoning History and Precedential Effect. Previous and potential zoning changes both in and around the area proposed for rezone shall be examined.

Analysis

- The current zoning of the Acer House parcels is NC1-40. The parcels were up-zoned in 2017 by CB 118981 as part of the 23rd Avenue Action Plan, itself part of HALA process. The specific motivation cited at the time was to address residential, commercial, and cultural displacement[11]
  - Prior to 2017, the Western parcels (Parcels A, B and C on the site plan) were SF 5000, and were home to the Cherry Hill Baptist Church.
  - Prior to 2017, the Eastern parcels (Parcels D, E, F and G on the site plan) were NC1-30
  - At the time of the 2017 rezone, the Acer parcels were brought to 40' to match the zoning along Cherry Street directly to the east.
- The entire stretch of E Cherry from 22nd to 28th was then NC1-40, until the 2019 MHA rezone (CB 119444) up-zoned only the eastern portion of this segment to 55'. It is unclear why the western part of this area was excluded.
  - During the 2019 re-zone, the single family homes to the north of the Acer site were changed to RSL.
- Upzoning the Acer Site will form a near-continuous stretch of NC1-55 along Cherry from 22nd to 28th, creating significant capacity for affordable housing and community focused retail spaces.
- **As noted in the main portion of this attachment, there is a clear racial disparity between the 55' eastern portion of the node and the 40' western position. The 40' western portion is majority Black-owned where as the eastern portion is mixed. Up-zoning the Acer site will begin to correct this disparity.**

[11] Pages 7-10 of the presentation to council at the time of the rezone

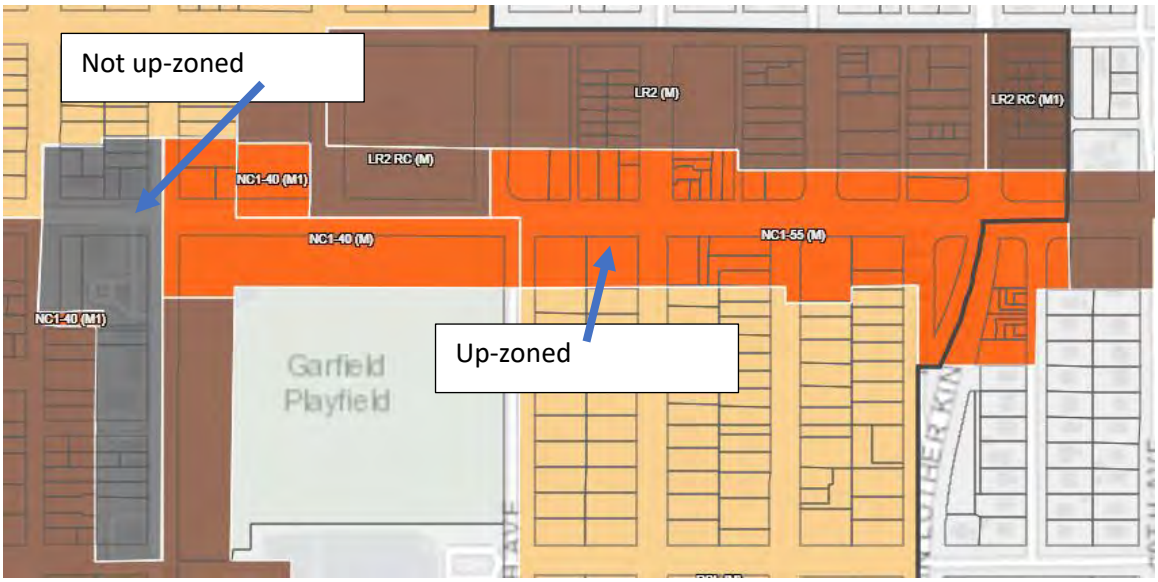

Figure 5 Map of 2019 rezone from CB 119444. Only the area to the east of 25th was increased from 40' to 55'

D. Neighborhood Plans.

1. For the purposes of this title, the effect of a neighborhood plan, adopted or amended by the City Council after January 1, 1995, shall be as expressly established by the City Council for each such neighborhood plan.

2. Council adopted neighborhood plans that apply to the area proposed for rezone shall be taken into consideration.

3. Where a neighborhood plan adopted or amended by the City Council after January 1, 1995 establishes policies expressly adopted for the purpose of guiding future rezones, but does not provide for rezones of particular sites or areas, rezones shall be in conformance with the rezone policies of such neighborhood plan.

4. If it is intended that rezones of particular sites or areas identified in a Council adopted neighborhood plan are to be required, then the rezones shall be approved simultaneously with the approval of the pertinent parts of the neighborhood plan.

Analysis

- The 2020 update of the 2035 Comprehensive Plan has an extensive section on the Central Area neighborhood plan, including notes about the 23rd and Cherry intersection, which we discuss in detail in Appendix A. Our conclusion is:
  - This community-informed project embodies the goals of the Central Area Neighborhood Plan, especially in the Community Identity & Character and Land Use, Transportation and Infrastructure, Housing, and Economic Development sections. Our proposal improves pedestrian infrastructure and access, creates pockets of culture for community-building, provides retail spaces designed for small businesses, and adds 107 units of affordable housing, 30% of which are income regulated, to the Central Area. The design intentionally expresses the African and

Black American presence within the neighborhood, while our anti-displacement approach seeks to preserve and elevate the already thriving Black, immigrant and refugee owned businesses at 23rd and Cherry, as well as foster the growth of new community-based small businesses.

- The applicable neighborhood plans do not include rezone policies.

E. Zoning principles. The following zoning principles shall be considered:

1. The impact of more intensive zones on less intensive zones, or industrial and commercial zones on other zones, shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.

2. Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:

a. Natural features such as topographic breaks, lakes, rivers, streams, ravines and shorelines;
b. Freeways, expressways, other major traffic arterials, and railroad tracks;
c. Distinct change in street layout and block orientation;
d. Open space and greenspaces.

3. Zone boundaries

a. In establishing boundaries, the following elements shall be considered:
1) Physical buffers as described in subsection 23.34.008.E.2; and
2) Platted lot lines.

b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.

4. In general, height limits greater than 55 feet should be limited to urban villages. Height limits greater than 55 feet may be considered outside of urban villages where higher height limits would be consistent with an adopted neighborhood plan, a major institution's adopted master plan, or where the designation would be consistent with the existing built character of the area.

Analysis

- The zoning directly to the north of Acer House is RSL and contains a mix of owner occupied and rental houses, both single family and duplex / triplex units. The houses immediately to the north of Acer House are representative in how they have increased in value due to lack of housing supply in the area:
  - The house immediately adjacent on the northwest, 712 22nd Ave, is a duplex with an owner occupant and a renter. It was acquired in 2015 for $350,000 and is valued by Zillow at $1,083,600 in July 2021
  - The house immediately adjacent on the northeast, 713 23rd Ave, is a rental owned by a large investor. It was acquired in 2017 for $387,500 and is valued by Zillow at $707,500 in July 2021
- The transition between the Acer House project and the RSL zone to the north will be managed through:

- Maintaining residential units on 22nd Ave, which is clearly a largely residential street. This will require an administrative exception from standard land use policies for the NC zone
- Maintaining a 15' setback from the Acer House building to the property line to the north for the majority of the building. This setback is not required by code. The setback will be used for private, screened play area for the day care and as private patios for certain units. This is an open space and green space as described in 23.34.008.E.2
- Upper level setback of 3' on the fifth floor on the north, which will hide the mass of the building from the most immediate neighbors to the north

➢ The height difference relative to other structures will not be as abrupt given the local zoning and topography.
- From the East and North: The Acer House site is located at a low point in the grade, significantly lower than the RSL zone to the north. Therefore, the increase in height of Acer House will not be as noticeable since the base of the building is lower.
- From the West: The height of the zone to the west is 55' already, so when developed Acer House will be consistent here
- From the South: The Garfield block contains several large structures, the most prominent of which is Garfield High School. The High School is a large building which is situated on grade much higher than Acer House.

➢ Acer House seeks to rezone to 55', and the area is within an Urban Village.

F. Impact evaluation. The evaluation of a proposed rezone shall consider the possible negative and positive impacts on the area proposed for rezone and its surroundings.

1. Factors to be examined include, but are not limited to, the following:

a. Housing, particularly low-income housing;
b. Public services;
c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows, and energy conservation;
d. Pedestrian safety;
e. Manufacturing activity;
f. Employment activity;
g. Character of areas recognized for architectural or historic value;
h. Shoreline view, public access, and recreation.

2. Service capacities. Development which can reasonably be anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including:

a. Street access to the area;
b. Street capacity in the area;
c. Transit service;
d. Parking capacity;
e. Utility and sewer capacity;
f. Shoreline navigation.

Analysis

- The specific impact of the rezone is to add an additional floor and 24 more residential units. This additional scale will have a significant positive impact on the project and allow us to achieve our goals for equity and community benefit. It will have a moderate impact on the neighborhood and infrastructure.
- A specific analysis on the factors in 23.34.008.F.1 follows:
  - **a. Housing:** The additional scale will add 2 additional MHA unit at 40+% AMI and 5 additional MFTE units at 60+% AMI. But more importantly, the addition of the 5th floor makes possible on-site performance for MHA for the entire building. MHA on-site performance is very challenging for a building, especially one that is sub scale at only four floors.
  - **b. Public services:** Public services will be available to the project due to its location in a highly developed urban area. No appreciable impacts to public services are anticipated due to the additional one story of housing made possible by the zone change. The project has obtained confirmation that adequate water, sewer, transit, storm water, and electrical services exist to serve the proposed project. The Preliminary Assessment Report is part of the MUP record reflecting these adequacies.
  - **c. Environmental factors:** No adverse impacts are expected from the change in zone or the additional 24 units. However, the increase in scale for the project permits investments such as constructing an entirely fossil fuel-free building. Acer House will be vested under the 2018 Seattle Energy Code, but before the requirement for heat pump hot water heaters was added. The Acer House team has opted to use heat pump hot water heaters anyway at substantial incremental cost, and this cost can only be recovered through the additional units.
  - **d. Pedestrian safety:** The project is improving sidewalks and landscaping on all three street-facing facades, which will have the impact of encouraging more pedestrian activity and calming traffic including on both the E Cherry and 23rd arterials and the 22nd Ave residential street.
  - **e. Manufacturing activity:** Not applicable
  - **f. Employment activity:** The residential building, pre-school, restaurant and retail spaces will all be a driver of employment in the neighborhood. Because of Acer House's commitment to equity, anti-racism, and no displacement, the primary beneficiaries of this employment will be BIPOC and minority owned businesses, especially the BIPOC owned businesses currently on site. These BIPOC businesses would otherwise be at significant risk of displacement, a fate too many other BIPOC owned businesses in the Central Area have suffered. The childcare space will bring much needed childcare service to working families in the area, further supporting employment.
  - **g. Character of areas recognized for architectural or historic value:** 23rd and Cherry is the heart of the Central Area, a diverse neighborhood that is currently undergoing a renaissance. Acer House is within site of important cultural landmarks such as the Garfield High School and the Quincy Jones Performing Arts Center. The Central Area and the Cherry Hill sub-area was traditionally the heart of Seattle's African American community but has suffered from significant gentrification due to real estate speculation and many other developments that did not have equity as a primary focus. The addition of Acer House as a celebration of anti-racism, afro-futurism and inclusion at this prominent intersection will reinforce the message of the historic monuments in the neighborhood and accelerate the renaissance of the Central Area. The rezone of Acer House and the additional scale it will bring is critical for achieving this goal.

- **h. Shoreline view, public access, and recreation.** Acer House is located directly across the street from the Garfield Playfields, the largest park in the area. Traditionally low-income families and people of color have been excluded from park infrastructure in Seattle and nationwide. Acer House, with its 107 affordable units, of which 33 are deeply affordable through MHA and MFTE, will improve access to the City's recreation for the community that needs it most.

- Service capacities: A specific analysis on the factors in 23.34.008.F.2 follows:
  - **a. Street access to the area:** the impact of the additional XX units on street access will be minimal. 23rd Avenue was recently improved by the city to accommodate growth in the region.
  - **b. Street capacity in the area:** the impact of the additional XX units on street capacity will be minimal. 23rd Avenue was recently improved by the city to accommodate growth in the region. Given that the project does not provide parking, we anticipate that the vast majority of our residents will be car free, further limiting impact on street capacity.
  - **c. Transit service:** 23rd and Cherry is well served by transit, and the Acer House project will provide additional ridership to these services. The 3, 4 and 48 stop directly in front of the project. Express routes to destinations outside the city such as the 63, 64X, 193X, 303X are within a few blocks. The Judkins Park light rail station is within walking distance or can be reached by bus on the 3, 4 route which has 6 minute peak head times.
  - **d. Parking capacity;** Acer House is encouraging a car-free lifestyle for residents and will not be providing parking. No parking is required by code given the location in an Urban Village with frequent transit Based on surveys done in other parking-free buildings, less than 25% of residents will have cars. Most of the neighborhood is single family housing with off-street parking.
  - **e. Utility and sewer capacity;** There is adequate utility and sewer capacity in the area and the additional height and units will not meaningfully affect capacity.
  - **f. Shoreline navigation.** Not applicable.

G. Changed circumstances. Evidence of changed circumstances shall be taken into consideration in reviewing proposed rezones, but is not required to demonstrate the appropriateness of a proposed rezone. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this Chapter 23.34.

Analysis

- Since the 2017 re-zone, a process that was started as early as 2012, much has changed in the Central Area. The area has continued to gentrify with the Black population continuing to drop. Rents for both residential and retail units have increased significantly. Overall, the need for equitable and affordable developments such as Acer has grown.
- Changes in factors related to the criteria in Chapter 23.34 include
  - **Housing**: the rents for an apartment in Seattle and the central area continues to outpace income growth, leading to a greater need for affordable housing (regulated and unregulated)
  - **Public services**: The improvements to 23rd Avenue including construction of new sewer infrastructure have been completed

- **Environmental factors**: The pressure for action on climate change has increased significantly, as has the stringency of building standards. Acer will be in full compliance with the nation-leading 2018 Seattle Energy Code, even before such compliance is required
- **Pedestrian safety**: Violent crime at 23rd and Cherry has worsened, with two shootings at the intersection in the past year. The addition of the Acer project and its "eyes on the street" will have a significant positive impact on safety
- **Employment activity**: Minority owned small businesses have been particularly hard hit by COVID-19, especially as real estate values have risen accelerating displacement. The need for affordable commercial spaces that prioritize no displacement is higher than ever.
- **Street capacity**: 23rd Ave has been fully upgraded
- **Parking capacity**: Since the last rezone, Seattle has passed "peak cars", meaning that the number of cars in the has remained stable. This suggests that demographic trends against car ownership have lessened the need for parking.
- **Utility and sewer capacity**: The improvements to 23rd Avenue including construction of new sewer infrastructure have been completed

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H. Overlay districts. If the area is located in an overlay district, the purpose and boundaries of the overlay district shall be considered.

Analysis

- Not applicable

I. Critical areas. If the area is located in or adjacent to a critical area (Chapter 25.09), the effect of the rezone on the critical area shall be considered.

Analysis

- *Not* applicable

23.34.009 - Height limits of the proposed rezone

If a decision to designate height limits in residential, commercial, or industrial zones is independent of the designation of a specific zone, in addition to the general rezone criteria of Section 23.34.008, the following shall apply:

A. Function of the zone. Height limits shall be consistent with the type and scale of development intended for each zone classification. The demand for permitted goods and services and the potential for displacement of preferred uses shall be considered.

Analysis

- Acer House's mission is to provide an equitable development that provides housing, commercial spaces, childcare and open space for the local community – all "permitted goods and services" that the community demands. These are being provided with a lens of equity and inclusion, addressing past injustices and displacement in the area.
- The current zoning of 40' allows for only a four-story building. Four stories is simply not sufficient scale to provide the Acer House program. A four story building would have 24 less units, but more importantly it would have significantly higher per-unit construction costs given it has less unit area across which to amortize the fixed costs of the development.
- So, not only does the additional height add more units, it also enables the mission of the development.

B. Topography of the area and its surroundings. Height limits shall reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage shall be considered.

Analysis

- The incremental height from the rezone from 40' to 55' will not block any views. The houses that are directly across the street from Acer to the 22nd have views that are already severely limited by the large trees on 22nd, and what partial views they have will already be completely obscured by a 40' structure. Going to 55' has no further effect.
- Acer House is at a natural low point in the topography of the region, and the end of a gentle slope that runs down E Cherry St from the West and 23rd Ave from the North.
- As such the residential houses in the neighborhoods to the North and West are situated higher than Acer House, and view blockages are kept to a minimum

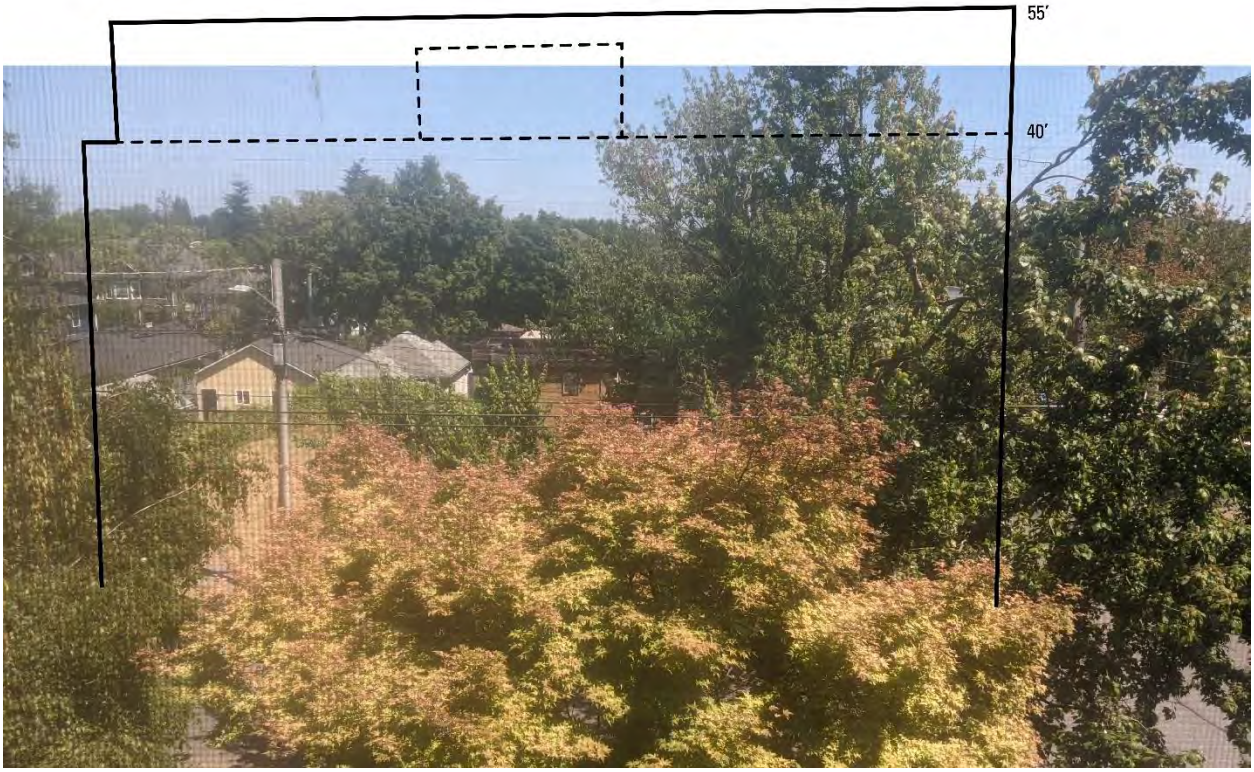

Figure 6. View from the upper floor of the house immediately opposite across 22nd. Code compliant 40' height is shown vs the proposed 55' design

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C. Height and scale of the area

1. The height limits established by current zoning in the area shall be given consideration.

2.In general, permitted height limits shall 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.

Analysis

- Acer is on the western edge of a commercial stretch on East Cherry Street that contains both 40' zoning and 55' zoning. We are asking for a rezone so that our site can have the same zoning as the 55' areas immediately to the East.
- The eastern portion of commercial area was up-zoned to 55' in 2019. Our conversations with the (mostly Black, mostly immigrant) land owners in the eastern area suggest that they were not aware of the up-zone process in 2019 and were excluded from it.

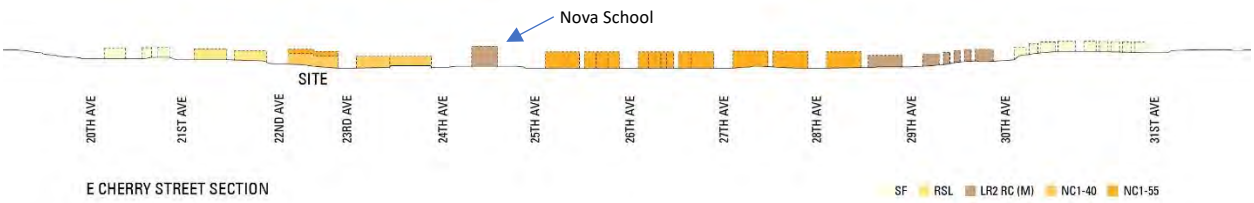

Figure 7. Acer site shown relative to the commercial node that runs along E Cherry from 22nd to 28th

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D. Compatibility with surrounding area

1. Height limits for an area shall be compatible with actual and zoned heights in surrounding areas excluding buildings developed under Major Institution height limits; height limits permitted by the underlying zone, rather than heights permitted by the Major Institution designation, shall be used for the rezone analysis.

2. A gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in subsection 23.34.008.D.2, are present.

Editor's note— Subsection 23.34.009.D.2 refers to 23.34.008.D.2. The correct reference is subsection 23.34.008.E.2.

Analysis

- There is existing major development a few blocks to the north at 23rd and Union and a few blocks to the south at 23rd and Jackson that is 75' in height. The zoning at these intersections has led to significant development, but the lower zoning currently at 23rd and Cherry has made it uneconomical to develop so far.
- As discussed elsewhere in this application, Acer House will have a transition to the RSL zones to the north in the form of an optional ground level setback.
- This transition is consistent with other transitions in the area, as the eastern part of the node has a transition from NC1-55 to SF5000

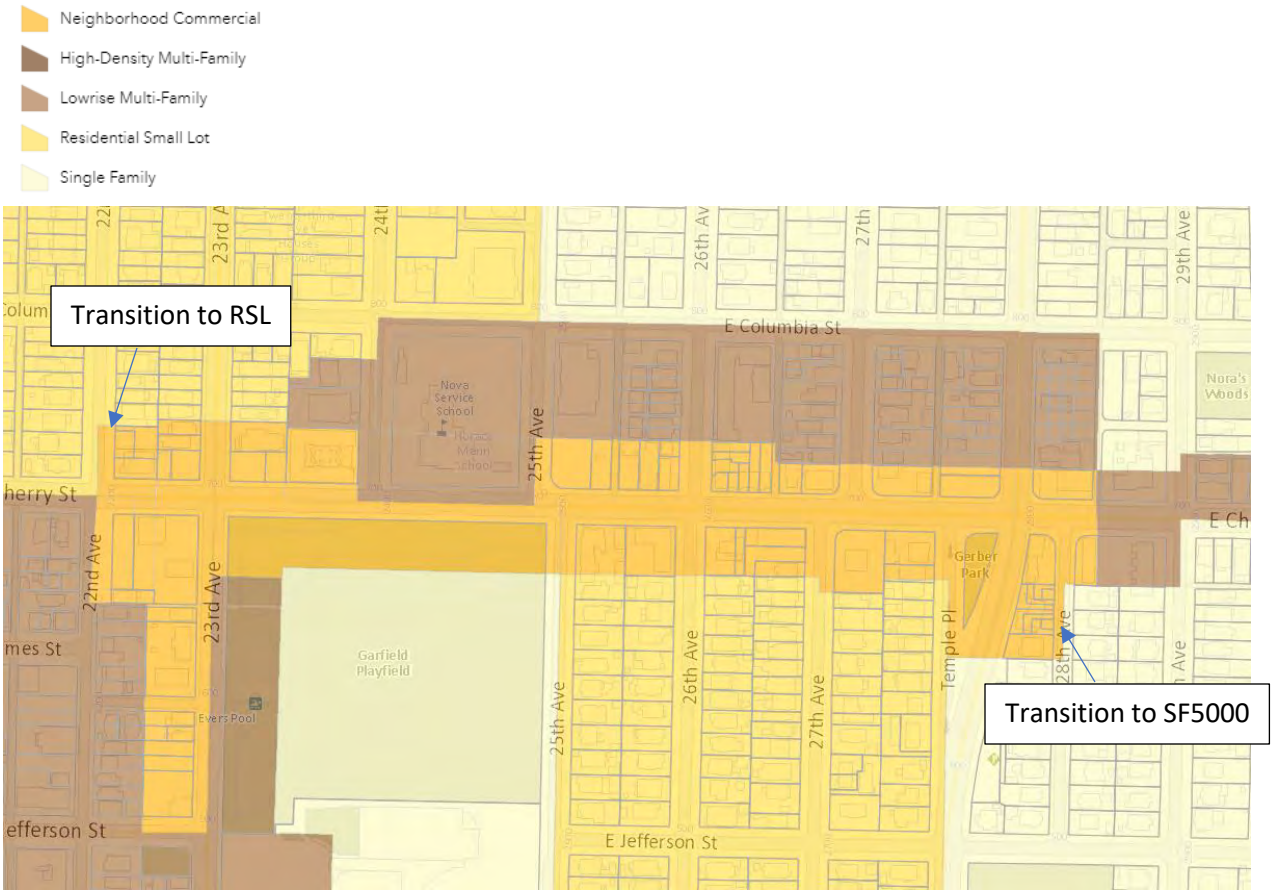

Figure 8. Zoning map of the 23rd and Cherry area. Note the transition from NC1-55 to SF500 in the east

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E. Neighborhood plans

1. Particular attention shall be given to height recommendations in business district plans or neighborhood plans adopted by the City Council subsequent to the adoption of the 1985 Land Use Map.

2. Neighborhood plans adopted or amended by the City Council after January 1, 1995, may require height limits different than those that would otherwise be established pursuant to the provisions of this Section 23.34.009 and Section 23.34.008.

Analysis

- Neither of the neighborhood plans directly address height recommendations or limits, and both plans were adopted after 1995. The Central Area neighborhood plan, the 23rd Avenue Action Plan, and the Central Area Design Guidelines are all council-approved documents which have a similar set of goals: creating more equitable development in the Central Area in a way that "celebrates its culture, heritage and diversity" and promotes affordability for residents and businesses alike. The attachments to this document detail the way in which Acer House's vision is fully consistent with this goal.
- The Neighborhood Plan specifically addresses 23rd and Cherry with the following statements:

- 23rd and Cherry goals (CA-G18): “This is a smaller-scaled community-serving node with finer grained mixed-use developments. This node has an abundance of community assets including parks/open space, Garfield High School and Community Center, teen center, arts programs, and small businesses, in particular ethnic restaurants, that create a unique identity for this node. It draws a broad mix of people, especially youth.”
- 23rd Ave policies related to 23rd and Cherry: (CA-P66): “Preserve small-scale neighborhood character, immigrant- and refugee-owned businesses while providing a greater variety of shops and services at 23rd and Cherry and an activated street frontage.”

➢ Acer House address these elements of the plan in multiple ways:
- Maintaining a “smaller scaled” node by keeping the height limit at 55’, instead of 75’ as is the limit at the other two main nodes (23/Union and 23/Jackson). 55’ is already the height of much of the commercial node along E Cherry near 23rd.
- Providing a “finer grade mixed use development” by prioritizing smaller retail spaces around our community courtyard, allowing diverse small businesses to thrive
- Adding to the “community assets” in the form of a low income childcare and a restaurant that will benefit from the rooftop garden on Acer House
- Committing to no displacement of the small business on site, including five Black-owned business, two of which are Black immigrant owned
- Adding 107 housing units, which will be natural customers for the businesses and cultural assets at the node

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Appendix B – Response to Neighborhood Plan

Conclusion

This community-informed project embodies the goals of the Central Area Neighborhood Plan, especially in the Community Identity & Character and Land Use, Transportation and Infrastructure, Housing, and Economic Development sections. Our proposal improves pedestrian infrastructure and access, creates pockets of culture for community-building, provides retail spaces designed for small businesses, and adds 107 units of affordable housing, 30% of which are income regulated, to the Central Area. The design intentionally expresses the African and Black American presence within the neighborhood, while our anti-displacement approach seeks to preserve and elevate the already thriving Black, immigrant and refugee owned businesses at 23rd and Cherry, as well as foster the growth of new community-based small businesses.

Detailed responses

OVERALL CENTRAL AREA COMMUNITY IDENTITY & CHARACTER AND LAND USE GOALS & POLICIES

	Goal / policy	Acer House response
CA-G1	The Central Area is a community proud of its culture, heritage, and diversity of people and places. This richness derives from the fact that this neighborhood has always been a place of welcome and it has been, and continues to be the center of the African American community.	This project's Afrofuturist design intentionally expresses the African and Black American presence within the neighborhood and in a future where Black people gain true equity in the global community. Our project creates a pocket of culture to represent the Black American identity within the Central Area. Beyond the design, we are working with Black/Immigrant small business owners currently operating on the site as well as current residential tenants to avoid displacement and smoothly transition to the new building.
CA-G2	The Central Area is a community that provides inclusive opportunities for everyone to participate in community projects.	We have gone beyond the procedural avenues to reach community members and include them in every step of this project. We are also creating a crowd-funded community co-investment fund which allows people with roots in the Central Area to share in the financial value created by the project--a process that Central Area residents, especially Black folks, have historically been excluded from.
CA-P1	Strengthen a unique identity for the Central Area that celebrates its culture, heritage, and diversity; enhance the sense of community;	The Cultural Placemaker map in the Central Area Design Guidelines identifies 23rd and Cherry as a key

	and increase the feeling of pride among Central Area residents, business owners, employees, and visitors through excellent physical and social environments.	intersection in the Central Area that serve as cultural and social anchors for their surrounding areas. The project, located at this corner, will stimulate activity and create visual interest to enhance the Central Area's identity through design elements like street furniture, public art, landscape elements, pedestrian lighting, and mosaics, as well as by providing affordable housing and commercial space for community members.
CA-P2	Recognize the historical importance and significance of the Central Area's existing housing stock, institutional buildings (old schools, etc.), and commercial structures as community resources. Incorporate their elements into building design and possible designation of historic and cultural resources.	Our site is at the heart of some of the Central Area's most important community resources—Garfield Community Center and High School for example. The building form divides massing so that it does not appear as one, monolithic structure and smoothly transitions to other nearby structures. Modulated facades keep the building inviting and consistent with the finer-grain fabric found in the Central Area neighborhood. Our proposal also includes visual art, signage and markers that tell the story of the neighborhood's history in engaging ways.
CA-P3	Seek opportunities for community-based public improvements that would create a sense of identity, establish pride of place, and enhance the overall image of the Central Area.	As a community-focused design, the project will provide cultural and place-specific open spaces that can be used for a variety of uses including social gathering and other cultural celebrations.
CA-P4	Create opportunities for public spaces, public art, and gateways that engage and express the Central Area's unique heritage and identity.	This project includes 1,932 square feet of publicly accessible open courtyard space, with artwork incorporated into the metal railing, pavement, and siding. The proposal also features a community porch with overhead coverage and a rooftop gathering area for building residents.
CA-P5	Identify activities and spaces for people with diverse cultures, ages, and background to meet, share, learn, and strengthen community ties.	Our public courtyard will be a community hub connecting 23rd and Cherry to a childcare, community-based retail spaces, and 107 affordable housing units, 33 of which are income regulated

CA-P6	Create an appealing environment that enhances the historic character while providing opportunities for existing and new development to grow, and serve the emerging needs of the diverse community.	See CA-G1
CA-P7	Create a vibrant commercial district, encouraging dense urban development in the commercial areas and encouraging housing supportive of the community through land use tools, such as rezones, design guidelines, and incentives.	In the project's pedestrian-oriented commercial areas, entrances are provided at regular intervals to accommodate and encourage smaller retailers and community-oriented businesses. A rezone from NC-40 to NC-55 would allow for a small shopping / retail area on the ground floor that serves the local neighborhood and the locational criteria of being in an urban village but adjacent to low density residential areas.
CA-P8	Support existing and new Central Area community programs and expand on existing partnerships so these programs prioritize services to those who consider the Central Area to be central to their identity, such as the African American community.	N/A
CA-P9	Support a network of community-based organizations that can coordinate diverse volunteers to implement community building programs and projects that serve to anchor the cultural diversity of the Central Area.	Our project team consists of community members who are part of various CBOs in the Central Area. We are also partnering with CBOs to apply for the city's Strategic Investment Fund to promote BIPOC ownership of retail spaces. Additionally, Acer House's public spaces can serve as a gathering place for community organizing and building.

TRANSPORTATION & INFRASTRUCTURE GOALS & POLICIES

	Goal / policy	Acer House response
CA-G3	A community where residents, workers, students, and visitors can choose from a variety of comfortable and convenient modes of transportation including walking, bicycling, and transit and where our reliance	This project will provide 107 units of affordable housing along a main artery of the Central District, with bus, bicycle, and walking access to

	on cars for basic transportation needs is minimized or eliminated.	Downtown Seattle--a major employment center. Affordable housing in this area allows people to live closer to their work, minimizing transit needs.
CA-G4	The neighborhood has an efficient and effective network of transit including linkages to the proposed East Link light rail station that supports land use goals and adequately serves the community.	There are 2 different bus lines connecting Acer House to the proposed East Link station at Judkins Park with a travel time of about 12 minutes.
CA-P10	Facilitate movement of residents, workers, visitors, and goods within the Central Area with a particular focus on increasing safety.	This project will result in increased eyes on the street (many unit windows facing south), as well as a safe, comfortable environment for pedestrians with components of planter zones, wide sidewalks, and building setbacks to allow for usable porches, stoops, and courtyard outdoor seating. The community members identified concerns for public safety and crime at this intersection.
CA-P11	Support a multimodal transportation network that connects community destinations such as economic centers, schools, recreational facilities, shopping nodes, and social gathering places and that links the Central Area to other neighborhoods.	In addition to the above highlighted linkages with current transit modes and the proposed East Link and RapidRide line, this project adds bike infrastructure (bicycle room and exterior racks) and increases pedestrian safety.
CA-P12	Consider traffic-calming measures on Central Area arterial streets.	The design has created pedestrian-friendly sidewalks by utilizing planter strips with lush landscaping to help create a protective space from vehicular traffic.
CA-P13	Work with institutions/businesses to develop creative solutions for minimizing single-occupant auto usage by employees and students.	Adding affordable housing near schools (Garfield, NOVA, childcare) will help reduce auto usage for students.
CA-P14	Maintain and improve pedestrian infrastructure including sidewalks, stairways, pedestrian underpasses, and planting strips and medians on arterial streets to enhance pedestrian safety, mobility, and access.	To protect pedestrians along the sidewalk, the project provides overhead weather protection at all non-residential frontages. The design

		encourages a quality pedestrian environment to provide safe, comfortable routes for pedestrians that improve the existing character of the neighborhood fabric. A safe, comfortable environment for pedestrians with components of planter zones, wide sidewalks, and building setbacks to allow for usable porches, stoops, and courtyard outdoor seating is incorporated in the design.
CA-P15	Consider improvements to unimproved rights-of-way such as street ends or alleys to foster pedestrian access and mobility.	See CA-P14
CA-P16	Coordinate transportation and infrastructure project planning with adjacent neighborhoods if they are affected by these projects.	N/A
CA-P17	Facilitate convenient transit access to local and regional employment centers for Central Area residents.	See GA-C3
CA-P18	Encourage shared parking at business nodes in order to meet parking demand while minimizing the size of surface parking lots and maximizing space for other uses.	The proposal does not include parking.
CA-P19	Encourage coordination of construction work within the street right-of-way in order to maximize the public benefit and minimize the disruption of the street surface.	We will coordinate with SDOT and any other neighborhood construction projects.
CA-P20	Improve road safety through public education, targeted enforcement, and engineering measures.	In addition to eyes on the street & plantings, road safety will be improved by 400 square feet of stormwater planting on the north side of the site, which will aid in stormwater management.
CA-P21	Develop a multimodal access plan for proposed and future high-capacity transit stations (Bus Rapid Transit, light rail) that serve or are near to the Central Area.	Our site on 23rd Avenue is near the route of the proposed RapidRide G Madison bus line.
CA-P22	Create safe pedestrian and bicycle access to bus and light rail service and to the business districts.	See CA-P14
CA-P23	Encourage King County Metro to provide effective bus service through the neighborhood to the light rail stations and surrounding community facilities.	A thriving commercial and residential hub at 23rd and

		Cherry would increase Metro ridership.
CA-P24	Improve the visual quality of the neighborhoods by encouraging undergrounding of utilities including service lines for all new construction and remodel projects and minimizing the impact of new telecommunication facilities such as towers.	The project will be relocating an existing power line to be closer to the intersection of 22nd of Cherry, clearing a visual obstruction from the center of the block

HOUSING GOALS & POLICIES

	Goal / policy	**Acer House response**
CA-G6	The Central Area is a stable community that provides a range of housing types and affordable options to support the sociodemographic diversity of this neighborhood.	Acer House will offer a range of affordable housing, all for residents 80% AMI and below. 20% of units will be affordable at levels prescribe by the MFTE program ranging from 40%-80% AMI. Acer House will provide "on site performance" under MHA, meaning an additional 10% of the units will be affordable to 40-60% AMI.
CA-P25	Advocate for more flexible options for mortgage financing, and strive to remove barriers to homeownership and renovation loans for local residents.	N/A
CA-P26	Support sweat-equity housing programs.	N/A
CA-P27	Support housing services that encourage age integration.	Having a childcare facility on-site will promote age integration.
CA-P28	Ameliorate the potential impacts of gentrification and displacement of existing residents through a variety of affordable housing programs including preserving existing multifamily affordable housing and producing new affordable housing.	This project will replace 4 current units of housing with 107 affordable units. Existing tenants have an apartment reserved for them in Acer House should they choose. For existing retail tenants, we have procured micro units nearby to minimize disturbance to their business during construction. All commercial tenants have a spot in the new building should they choose.

CA-P29	Maintain and create affordable housing to keep a range of housing prices and unit sizes including affordable family-sized units with amenities for families, and a balance of rental and owner-occupied housing.	Acer House units range from studios to 2 bedrooms. Amenities for families include on-site childcare facility, nearby Garfield Community Center, and access to bus lines.
CA-P30	Assist low-income, senior, and disabled renters and homeowners by encouraging supportive services that will allow them to continue to live in the neighborhood.	We work with tenants to procure vouchers and rental assistance when necessary, as well as other wrap around services. Acer House is located near several services and amenities including Garfield Community Center, Byrd Barr Food Bank, Swedish Medical Center, mini parks, and several houses of faith.
CA-P31	Encourage affordable housing in close proximity or with easy access to community assets and amenities	See CA-P30
CA-P32	Target affordable housing investments near investments in high-frequency transit to reduce the transportation costs of low-income households.	Acer House is located along more than 5 bus lines and is 12 minutes by bus from the proposed East Link station at Judkins Park.
CA-P33	Leverage publicly owned properties to produce affordable housing.	N/A
CA-P34	Provide development incentives or requirements for the provision of affordable housing units within market-rate housing projects.	All housing in Acer House will be affordable, and we are utilizing the MHA and MFTE programs to provide regulated affordable housing.

ECONOMIC DEVELOPMENT GOALS & POLICIES

	Goal / policy	**Acer House response**
CA-G7	The Central Area is a culturally and ethnically diverse and economically strong community. Its business districts provide the goods and services needed for the multicultural community who live, work, worship, and shop there.	There are community-based, Black and Immigrant owned small businesses at 23rd and Cherry such as Update Barber and Flowers Just 4 U. This project features retail spaces designed with them, and other local small businesses in mind.
CA-G8	The Central Area has vibrant commercial districts with diverse economic opportunities for area residents,	The childcare facility and other businesses will provide jobs. Acer House will also provide

	including career-path family-wage jobs for its residents.	necessary affordable housing for Central Area residents who work or hope to work in the Downtown Seattle employment center.
CA-G9	The Central Area has strong entrepreneurship that creates jobs and grows the local economy for the benefit of its residents.	Our retail spaces will be commercially affordable. We are partnering with CBOs to apply for a grant through the Strategic Investment Fund (SIF) with the goal of supporting Central Area entrepreneurs to build their business with a path to ownership in our space.
CA-G10	This neighborhood is, and feels, safe and inviting for people and businesses.	The design promotes transparency and "eyes on the street." No reflective or obscure glass will be used. Commercial tenants will be encouraged to refrain from putting display cases or window film up against windows to maintain transparency into commercial spaces.
CA-P35	Support efforts to encourage existing and new minority and locally owned businesses in the Central Area to grow and expand.	We are supporting current business tenants with anti-displacement efforts and hope to support new tenants through commercial affordability and the SIF grant.
CA-P36	Support implementation of coordinated long-term strategies to improve commercial districts including support for existing or expanding small businesses and ethnically based businesses in order to maintain the multicultural character.	This project includes a strategy for relocation of existing businesses to a space less than a block away on East Cherry during construction to minimize disruption should they choose.
CA-P37	Support strong, culturally inclusive business associations that support the vitality of business districts serving the entire community.	The addition of 7 affordable commercial spaces will help the strengthening of local business associations.
CA-P38	Support vibrant, diverse, and distinct commercial districts that provide a range of goods and services for the entire community.	The design consolidates this segment of 23rd and Cherry into a community-focused cultural site for small businesses to thrive.

CA-P39	Support projects that increase affordable, culturally appropriate and healthy food.	Our all-day restaurant or café will reflect the cultural diversity of the Central Area and 23rd and Cherry more specifically. Our rooftop garden will provide residents with fresh produce and connect them to the production of their own food.
CA-P40	Create strong linkages to tie job and vocational training, apprenticeship programs, and jobs to members of the community in need of such services, especially youth.	N/A
CA-P41	Build strong partnerships and support projects that provide opportunities for local jobs for Central Area residents and pathways to living wage jobs in the region's employment centers.	Commercial affordability will allow small businesses at Acer House to provide good jobs.
CA-P42	Strive to develop healthy workplaces where employees are treated with respect, and have a voice in decisions that impact their jobs, lives, and community.	By providing retail space designed for and affordable to small, community-based businesses, we hope to foster the growth of healthy workplaces.
CA-P43	Provide opportunities and support to facilitate start-up small businesses.	See CA-G9
CA-P44	Encourage partnerships among businesses to create a safe and active commercial district.	We are actively facilitating group meetings with business owners at 23rd and Cherry
CA-P45	Seek opportunities to strengthen partnerships between the community and the Seattle Police Department.	N/A
CA-P46	Support crime prevention programs that create partnerships between the broad diversity of the community, the businesses, and the City to decrease crime and to address underlying conditions that may encourage crime.	Our community outreach has shown that residents and neighbors support "eyes on the street" as a crime prevention measure. The design incorporates transparent and open outdoor community gathering spaces at the ground level. The project will avoid having any window coverings or window film that permanently obscure views into or out of the interior space. The proposed building relates to the earth, using building forms and

		massing that engage the ground plane, rather than floating above it. Ground level transparency occurs on major pedestrian and commercial streets.
CA-P47	Support efforts to improve the appearance and cleanliness of business districts.	This project proposes major aesthetic improvements for the 23rd and Cherry urban village. The design proposes special treatment through pavement and building materials to highlight each business's presence along the street. There will be no blank facades at the sidewalk edge and the only barriers to the sidewalk will be fall protection at the grade change between the sidewalk and the Courtyard. The project will provide celebrated business entries to encourage a slower pedestrian pace where people have inviting space to stop and gather.

HUMAN SERVICE AND COMMUNITY BUILDING GOALS & POLICIES

	Goal / policy	**Acer House response**
CA-G11	The Central Area is a connected and caring community that nurtures and supports all its members especially the children, youth, and the elderly, and provides programs and services needed by its diverse community.	Acer House creates space for community-building. The project designs of the Stoop, Community Porch and Courtyard encourage human activity by providing opportunities for neighbors to connect, walk, and talk together with those on the sidewalk.
CA-G12	The Central Area has strong schools with excellent programs and strong enrollment with no achievement gap, providing opportunities for all students to succeed and have bright futures.	N/A
CA-G13	The Central Area is a neighborhood in which the community, community-based organizations, service	N/A

	organizations, education/training institutions, and the City work together to create pathways to meaningful employment for all its youth.	
CA-G14	To support cultural diversity, there is improved access to education and employment training opportunities for all, especially for its diverse youth.	N/A
CA-G15	All Central Area youth are empowered and have strong leadership skills.	N/A
CA-G16	The Central Area has strong organizations and local leaders who work to anchor the cultural diversity of this neighborhood.	N/A
CA-P48	Encourage local institutions, community-based organizations, and other agencies to provide lifelong learning opportunities needed by the Central Area's diverse community.	N/A
CA-P49	Provide all Central Area youth with required skills and experience needed for future careers. Maximize the capability of local institutions and program providers such as Seattle Vocational Institute to serve such needs.	N/A
CA-P50	In the Central Area, support the growth of jobs for teenagers, especially those most in need of a path to a successful future.	See CA-P41
CA-P51	Provide the Central Area youth with cultural education and recreational opportunities that embrace its diversity.	The design includes interpretive opportunities through visual art, signage and markers that tell the story of the neighborhood's history in engaging ways.
CA-P52	Enhance community pride through multicultural activities such as community festivals, youth mentoring, and other youth programs.	N/A
CA-P53	Support innovative and effective youth services.	N/A
CA-P54	Encourage Central Area youth to actively engage in community activities and develop leadership skills, especially those most in need of such support.	See CA-G11
CA-P55	Provide seniors with needed resources and assistance and opportunities to engage with the community.	Acer House will house people of all ages--small business customers, the childcare, and ample community spaces will allow opportunities for intergenerational community building.
CA-P56	Provide supportive services for the immigrant/refugee and African American communities.	N/A
CA-P57	Support programs and organizations that nurture local leadership within the Central Area.	See CA-G9

PARKS AND OPEN SPACES GOALS & POLICIES

	Goal / policy	Acer House response
CA-G17	A community with functional, well-maintained and connected parks, open space, and recreational facilities to serve the Central Area's diverse population.	See CA-G-11
CA-P58	Facilitate community involvement such that park facilities, improvements, and programming better reflect the needs of the neighborhood.	This project will bring hundreds more residents and small business customers steps from Garfield Playfield and other nearby mini parks, increasing the pool for community involvement.
CA-P59	Seek opportunities within the commercial districts to create open spaces for community gathering.	See CA-G11
CA-P60	Seek opportunities for public open space on unused or unimproved properties.	We are in the process of transforming the vacant lots on the property into a dog park for public use before construction begins. This was the result of extensive community outreach and ongoing conversations with neighbors.
CA-P61	Promote greening and beautification of the neighborhood through local citizen participation.	This proposal provides opportunities for resident and small business stewardship of parks, especially programs through the childcare.
CA-P62	Work with community members, organizations, schools, and institutions to provide park stewardship.	See CA-P61

23RD AVENUE CORRIDOR GOALS & POLICIES

	Goal / policy	Acer House response
CA-G18	23rd and Cherry—This is a smaller-scaled [compared to Jackson-larger, and Union-medium] community-serving node with finer grained mixed-use developments. This node has an abundance of community assets including parks/open space, Garfield High School and Community Center, teen center, arts programs, and small businesses, in particular ethnic restaurants, that create a unique identity for this node. It draws a broad mix of people, especially youth.	NC-55 zoning would render 23rd and Cherry the desired scale along the 23rd avenue corridor, with 23rd and Union and 23rd and Jackson Zoned for NC-75. Smaller and varied building forms are utilized. The building form divides massing so that it does not appear as one,

		monolithic structure. Vertical and horizontal patterns provide articulation and break down the overall massing. Modulated facades keep the building inviting and consistent with the finer-grain fabric found in the Central Area neighborhood. The design features public art and setbacks to provide open spaces. Wide sidewalks and new plantings provide a safe and comfortable path for pedestrians to access community assets. Commercially affordable retail for community-based small businesses with priority to existing tenants.
CA-P66	Preserve small-scale neighborhood character, immigrant- and refugee-owned businesses while providing a greater variety of shops and services at 23rd and Cherry and an activated street frontage.	Acer House proposes to accomplish exactly this vision. Our design includes existing businesses and transforms the street frontage into a lush community corridor.
CA-P67	Improve access and connectivity to community assets at 23rd and Cherry and activate space around Garfield High School, Garfield Community Center, and Medgar Evers Pool.	Our design improves the street frontage and facilitates safe and comfortable pedestrian passage with wider sidewalks, overhead coverage, and building setbacks. This will activate routes to community amenities and transit modes.
CA-P68	Consider rezoning single-family zoned parcels to neighborhood commercial to support continuation and expansion of services provided by local institutions as the Cherry Hill Baptist Church.	N/A

3037185-LU - Rezone;SEPA/

DSGN RVW
2210 E Cherry ST
MAP #112

Feet
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SEATTLE CITY COUNCIL
CENTRAL STAFF

Clerk File 314474 – Acer House Rezone 2210 E. Cherry St.

KETIL FREEMAN, ANALYST

LAND USE COMMITTEE
OCTOBER 20, 2023

Type of Action

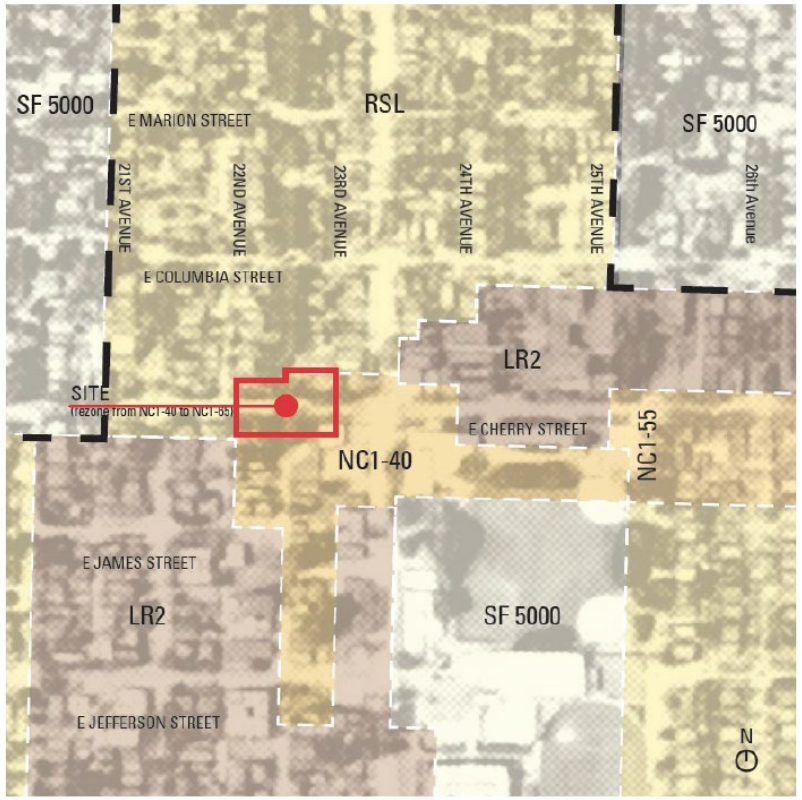
- Type IV - Quasi-judicial decision
- Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication
- Council decisions must be made on the record established by the Hearing Examiner

Application Summary

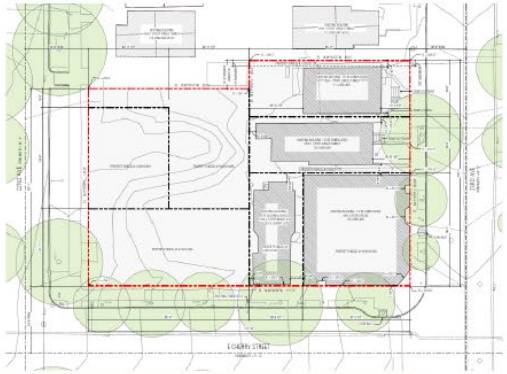
- Proposed rezone of a split-zoned site:
  - Eastern portion zoned NC1-40 (M) to NC1-65 (M1)
  - Western portion zoned NC1-40 (M2) to NC1 65 (M2)
- Overall project site area is approximately 19,000 square feet
- Rezone would facilitate the development of a mixed-use building designed in an Afro-futurist style with 114 apartments and ground floor commercial space

Site Context and Zoning

zoning



existing site plan



From SDCI Presentation – Hearing Examiner Exhibit 65

Project Rendering

Hearing Examiner's Exhibit 65

Process

- SDCI recommendation to conditionally approve, June 8
- Hearing Examiner open record hearing, July 19
- Hearing Examiner recommendation, August 17
- No appeals therefore Council should act no later than November 7

Hearing Examiner Recommended PUDA Conditions

Prior to Issuance of a Building Permit

1. Plans for development of the rezoned property shall be in substantial conformance, as determined by the Director, with the approved plans for Master Use Permit (MUP) Number 3037185-LU.

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

1. Provide a Construction Management Plan that has been approved by the Seattle Department of Transportation (SDOT). The submittal information and review process for Construction Management Plans are described on the SDOT website.
2. Provide an archaeological monitoring and inadvertent discovery plan prepared by a qualified professional and include statement that the Duwamish Tribe shall be notified in the event of archaeological work.

Hearing Examiner Recommended PUDA Conditions, contd.

For the Life of the Project

1. The building and landscape design shall be substantially consistent with the materials presented at the Design Review Board 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 a Land Use Planner at the Seattle Department of Construction and Inspections.

Actions if Committee approves rezone

- Amend Clerk File title to reflect recommended rezone
- Add Findings, Conclusion and Decision to Clerk File
- Vote to recommend approval of the Clerk File
- Introduce Council Bill with signed PUDA on October 24
- Council vote on October 31 or November 7

Questions?

SEATTLE CITY COUNCIL
CENTRAL STAFF

October 17, 2023

M E M O R A N D U M

To: Land Use Committee
From: Ketil Freeman, Analyst
Subject: Clerk File 314474 – Contract Rezone, 2210 East Cherry Street

On October 20, the Land Use Committee (Committee) will have a briefing and may make a recommendation to City Council on Clerk File (CF) 314474, which is an application by Acer House, LLC, for a contract rezone of a site located in the 23rd & Union-Jackson urban village and addressed as 2210 East Cherry Street. If the Committee recommends approval of the rezone, a Council Bill (Exhibit 1) to effectuate the rezone will be introduced for action at the City Council alongside CF 314474.

This memorandum: (1) provides an overview of the rezone application contained in CF 314474; (2) 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 (3) describes next steps.

Overview of Rezone Application

Acer House, LLC (Applicant) has applied for a contract rezone of an approximately 19,000 square foot site located at the northwest corner of the intersection of East Cherry Street and 23rd Avenue. The site is split-zoned with the eastern portion zoned Neighborhood Commercial 1 with a 40-foot height limit and M Mandatory Housing Affordability (MHA) suffix (NC1-40 (M)) and the western portion zoned Neighborhood Commercial 1 with a 40-foot height limit and M2 MHA suffix (NC1 40 (M2)). The proposed rezone would be to a Neighborhood Commercial 1 zone with a 65-foot height limit. The MHA suffix for the eastern portion of the site would increase to M1 and stay at M2 for the western portion.

The application includes a Master Use Permit to redevelop the site with a mixed-use building developed in an Afro-futurist style and palette with 114 apartment units and street-level commercial uses. The Applicant intends to satisfy MHA program requirements through on-site performance and participate in the Multi-family Tax Exemption Program.

On June 8, 2023, the Seattle Department of Construction and Inspections (SDCI) issued an affirmative recommendation to conditionally approve the application. On July 19, 2023, the Hearing Examiner held an open-record public hearing on the proposed rezone. On August 17, 2023, the Hearing Examiner recommended conditional approval.

The Hearing Examiner's recommended conditions are included in his Findings and Recommendation (Exhibit 2) at page 11.

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 hour-long hearing can be accessed through the Hearing Examiner's website.[3] Excerpts from the record, the SDCI recommendation, public comments letters, and an analysis by the Applicant of how the proposed rezone meets the rezone criteria in SMC Chapter 23.34 are contained in the Legistar record for CF 314474.

Committee Decision Documents

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

CF 314474 - 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.

Since CF 314474 was created, the Applicant has revised their application to seek a taller height limit. To accurately reflect the rezone recommended by SDCI and the Hearing Examiner the title to the CF should be amended as follows:

> Application of Acer House, LLC for a contract rezone of a 19,343 square foot site located at ~~701 23rd Avenue~~ 2210 East Cherry Street from Neighborhood Commercial 1-40 with an M MHA suffix (NC1-40 (M)) to Neighborhood Commercial 1 with a 65 foot height limit and M1 Mandatory Housing Affordability suffix (NC1-65 (M1)) and from Neighborhood Commercial 1 with a 40 foot height limit and M2 Mandatory Housing Affordability suffix (NC1 40 (M2)) to Neighborhood Commercial 1 with a 65 foot height limit and M2 Mandatory Housing Affordability suffix (NC1-65 (M2)) ~~and partially with an~~

[1] Seattle Municipal Code (SMC) Section 23.76.036.
[2] Adopted by Resolution 31602 (2015).
[3] Case Details for CF-314474 (seattle.gov).

~~MHA 2 suffix (NC1-40 (M2)) to Neighborhood Commercial 1-55 (NC1-55 (M) and NC1-55 (M2))~~ (Project No. ~~3037717-EG~~ 3037185-LU; Type IV).

Rezone Bill

A Council Bill to amend the Official Land Use Map to rezone the site and approve and accept an executed PUDA included with Exhibit 1 should be introduced and passed alongside the Clerk File. This bill would effectuate the rezone.

Next Steps

The rezone application will be considered by the Committee for a potential recommendation to City Council on October 20. If the Committee recommends approval of the rezone, the Council Bill included as Exhibit 1 to this memo will be introduced at the City Council meeting on Tuesday, October 24. Depending on Committee action, a City Council vote on the bill would occur at the November 7 City Council meeting.

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

Exhibits:
1. Draft Council Bill
2. Findings and Recommendation of the Hearing Examiner
3. Draft Findings, Conclusions and Decision

Ketil Freeman
LEG 2210 E Cherry Rezone ORD
D1a

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 page 112 of the Official Land Use Map to rezone parcels located at 2210 East Cherry Street from Neighborhood Commercial 1 with a 40 foot height limit and M Mandatory Housing Affordability suffix (NC1-40 (M)) to Neighborhood Commercial 1 with a 65 foot height limit and M1 Mandatory Housing Affordability suffix (NC1-65 (M1)) and from Neighborhood Commercial 1 with a 40 foot height limit and M2 Mandatory Housing Affordability Suffix (NC1 40 (M2)) to Neighborhood Commercial 1 with a 65 foot height limit and M2 Mandatory Housing Affordability suffix (NC1-65 (M2)) and accepting a Property Use and Development Agreements as a condition of rezone approval. (Application of Acer House, LLC, C.F. 314474, SDCI Project 3037185-LU)

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones the following legally described property commonly known as 2210 East Cherry Street:

<u>PARCELS #912610--1695, 912610--1685 & 912610--1681</u>

(PER STEWART TITLE INSURANCE COMPANY ORDER NO. 820537, DATED JUNE 30, 2020)

PARCELS A, C, AND C, CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 3032095-LU, RECORDED UNDER RECORDING NO. 20181024900003, RECORDS OF KING COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF KING STATE OF WASHINGTON.

<u>PARCEL #912610--1705</u>

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523432, DATED JULY 15, 2020)

THE EASTERLY 2/3 OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1725

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547292, DATED AUGUST 07, 2020)

LOT 13, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1730

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547283, DATED AUGUST 07, 2020)

LOT 14, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1706

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523524, DATED JULY 15, 2020)

THE WEST ONE-THIRD OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

Section 2. Page 112 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, is amended to rezone parcels 912610-1705, 912610-1725, 912610-1730, and 912610-1706 of the Property described in Section 1 of this ordinance from Neighborhood Commercial 1 with a 40 foot height limit and M Mandatory Housing Affordability suffix (NC1-40 (M)) to Neighborhood Commercial 1 with a 65 foot height limit and M1 Mandatory Housing Affordability suffix (NC1-65 (M1)) and to rezone parcels 912610-1695, 912610-1685, and 912610-1681 of the Property from Neighborhood Commercial 1 with a 40 foot height limit and M2 Mandatory Housing Affordability Suffix (NC1 40 (M2)) to Neighborhood Commercial 1 with a 65 foot height limit and M2 Mandatory Housing Affordability suffix (NC1-65 (M2)), all as shown in Exhibit A to this ordinance. Approval of this rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved in Section 3 of this ordinance.

Section 3. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

Section 4. 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 5. 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.

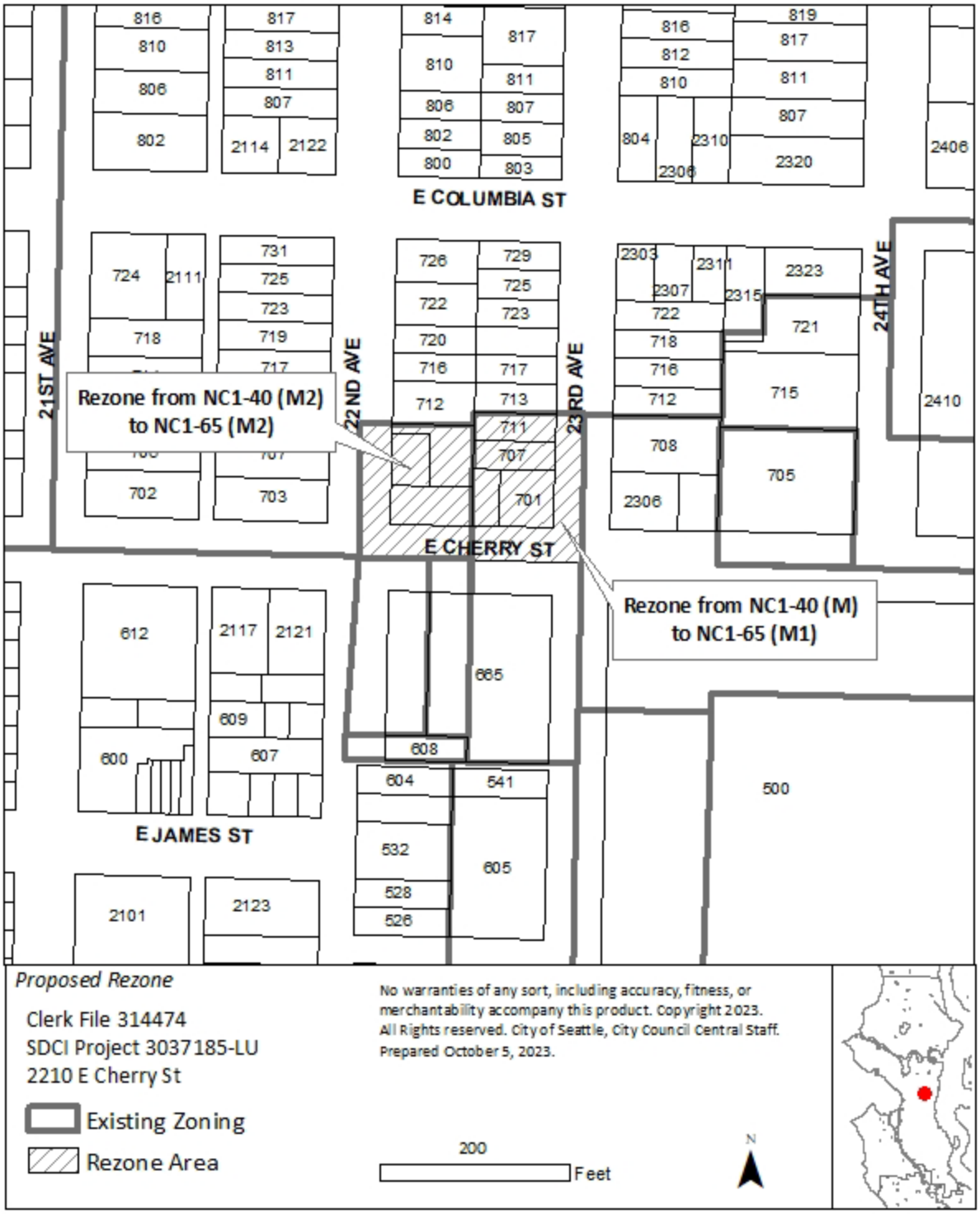
_____

Scheereen Dedman, City Clerk

(Seal)

Exhibits:
Exhibit A – Rezone Map
Exhibit B – Property Use and Development Agreement for 2210 East Cherry Street

Exhibit A – Rezone Map
V1



Property Use and Development Agreement

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):		Acer House, LLC		
Grantee:		The City of Seattle		
Legal Description (*abbreviated if necessary*)**:**	See Attachment B			
Assessor's Tax Parcel ID #:	Parcels: 912610-1695, 912610-1685, 912610-1681, 912610-1705, 912610-1725, 912610-1730, and 912610-1706			

Reference Nos. of Documents Released or Assigned:	n/a

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this ___ day of _____, 2023, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by ACER HOUSE, LLC, a Washington Limited Liability Company ("Owner").

RECITALS

A. ACER HOUSE, LLC, is the owner of that certain real property, addressed as 2210 East Cherry Street, consisting of seven parcels (collectively "Property") in the City of Seattle currently zoned Neighborhood Commercial 1 with a 40 foot height limit and M Mandatory Housing Affordability suffix (NC1-40 (M)) and Neighborhood Commercial 1 with a 40 foot height limit and M2 Mandatory Housing Affordability Suffix (NC1 40 (M2)), shown in Attachment A and legally described in Attachment B.

B. In July 2021, the Owner submitted to the City an application under Project No. 3037185-LU to rezone parcels 912610-1705, 912610-1725, 912610-1730, and 912610-1706 of the Property from NC1-40 (M) to Neighborhood Commercial 1 with a 65 foot height limit and M1 Mandatory Housing Affordability suffix (NC1-65 (M1)) and parcels 912610-1695, 912610-1685, and 912610-1681of the Property from NC1 40 (M2) to Neighborhood Commercial 1 with a 65 foot height limit and M2 Mandatory Housing Affordability suffix (NC1-65 (M2)) (the "Rezone"), shown in Attachment A.

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 conditions in consideration of the Rezone:

Prior to Issuance of a Building Permit

1. Plans for development of the rezoned property shall be in substantial conformance, as determined by the Director, with the approved plans for Master Use Permit (MUP) Number 3037185-LU.

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

1. Provide a Construction Management Plan that has been approved by the Seattle Department of Transportation (SDOT). The submittal information and review process for Construction Management Plans are described on the SDOT website.
2. Provide an archaeological monitoring and inadvertent discovery plan prepared by a qualified professional and include statement that the Duwamish Tribe shall be notified in the event of archaeological work.

For the Life of the Project

1. The building and landscape design shall be substantially consistent with the materials presented at the Design Review Board 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 a Land Use Planner at the Seattle Department of Construction and Inspections.

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 pages]

SIGNED this _____ day of _____, 2023.

ACER HOUSE, LLC, a Washington Limited Liability Company

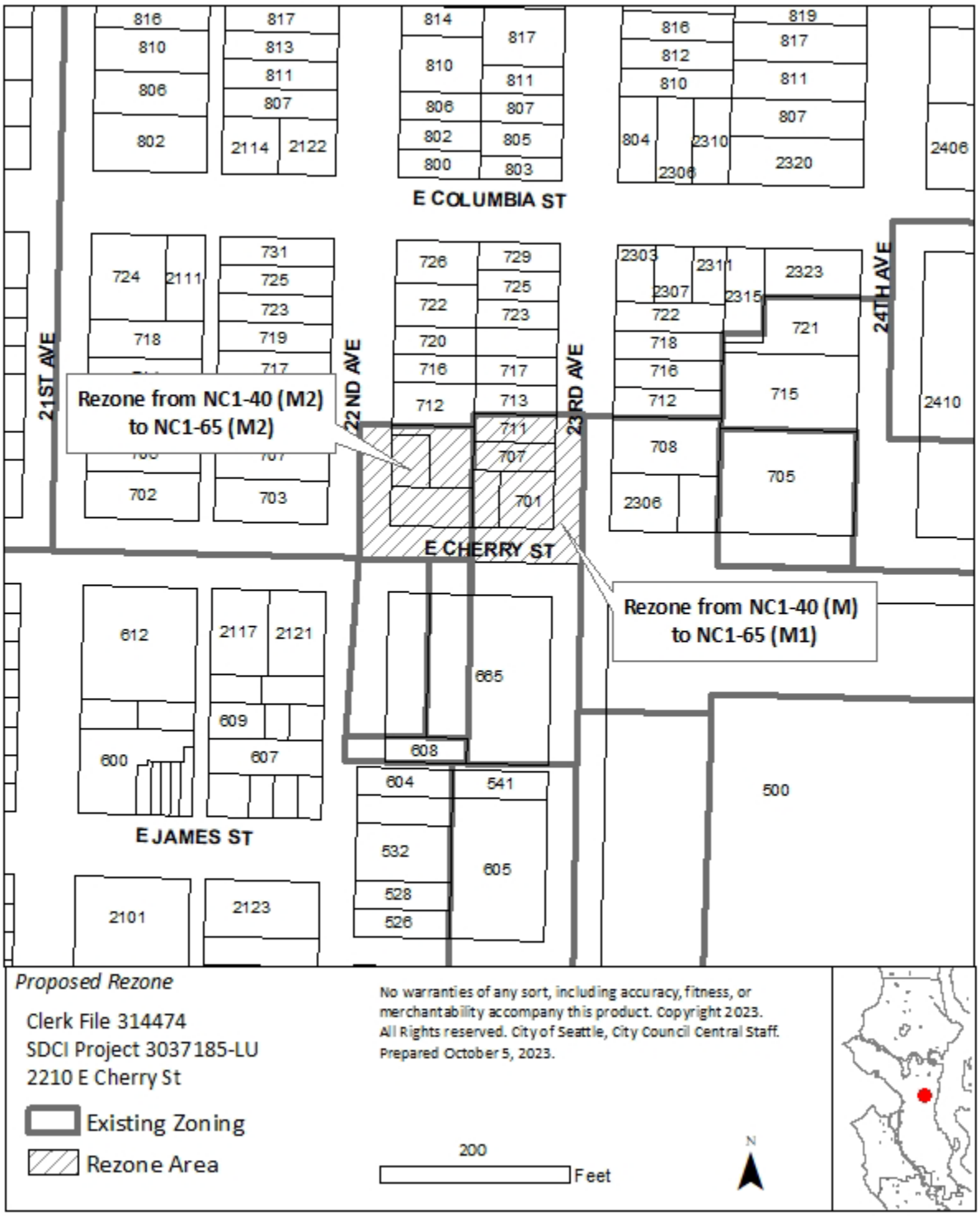
By: _____

On this day personally appeared before me _____, to me known to be the _____, of _____, a Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2023.

		Printed Name _____
		NOTARY PUBLIC in and for the State of Washington, residing at _____
		My Commission Expires _____
STATE OF WASHINGTON COUNTY OF KING	}	ss.

ATTACHMENT A



ATTACHMENT B

PARCELS #912610--1695, 912610--1685 & 912610--1681

(PER STEWART TITLE INSURANCE COMPANY ORDER NO. 820537, DATED JUNE 30, 2020)

PARCELS A, C, AND C, CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 3032095-LU, RECORDED UNDER RECORDING NO. 20181024900003, RECORDS OF KING COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF KING STATE OF WASHINGTON.

PARCEL #912610--1705

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523432, DATED JULY 15, 2020)

THE EASTERLY 2/3 OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1725

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547292, DATED AUGUST 07, 2020)

LOT 13, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1730

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547283, DATED AUGUST 07, 2020)

LOT 14, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1706

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523524, DATED JULY 15, 2020)

THE WEST ONE-THIRD OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

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

In the Matter of the Application of **CF-314474**

BENJAMIN MARITZ Department Reference: 3037185-LU

for a contract rezone for property located at 2210 E Cherry St

Introduction

Benjamin Maritz, ("Applicant") applied for a rezone of 7 parcels of land located at 2210 E Cherry St. The Director of the Department of Construction and Inspections ("SDCI" or "Director") submitted a report recommending that the rezone be approved. The Director's report included a SEPA Determination of Non-significance ("DNS"), which was not appealed.

A hearing on the rezone application was held before the Hearing Examiner on July 19, 2023. The Applicant was represented by Kateesha Atterberry and Benjamin Maritz, and the Director was represented by David Sachs. The Hearing Examiner visited the site following the hearing on August 1, 2023, and the record closed on that date.

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 development site consists of 7 tax parcels located on the northwest corner of 23rd Ave and E Cherry St in the 23rd and Union-Jackson Residential Urban Village.

2. The approximate eastern half of the site is zoned Neighborhood Commercial 1-40 with an "M" suffix ("NC1-40 (M)") and the approximate western half of the site is zoned NC 1-40 with an "M2" suffix ("NC1-40 (M2)").

3. Properties to the north and west are zoned Residential Small Lot (M) ("RSL (M)"). Properties to the east are zoned NC1-40 (M). Properties to the south are zoned NC1-40 (M) and NC1-40 (M1).

4. The entire subject site is located within the 23rd and Union-Jackson Residential Urban Village with boundaries as established in the Comprehensive Plan.

5. Two commercial structures built in 1907 and 1914 and two single-family residences built in 1900 are located on the eastern portion of the site; the western portion is vacant.

6. The site slopes downward northwest to southeast approximately 16 feet.

7. Single-family residences are located on adjacent properties to the north and west; and commercial structures are adjacent to the east and south. The immediate vicinity is largely comprised of single-family residences. Small-scale commercial uses and lowrise multifamily developments front 23rd Ave and E Cherry St in the proximate blocks.

8. Community facilities, including Garfield Community Center, Medgar Evers Pool, Garfield High School, and the Quincy Jones Performing Arts Center, occupy the block to the southeast.

9. 23rd Ave is a principal arterial providing north-south circulation through the Central Area. E Cherry St is a minor arterial providing east-west circulation.

10. The neighborhood is characterized by a variety of building scales and uses, with many of the older commercial and residential structures dating from the early 1900s. Smaller scale structures front E Cherry St, comprising a mix of older multistory apartment buildings and small, single story businesses. In the blocks to the northwest, existing small-scale residential structures exhibit similar massing and siting patterns, and generally traditional architectural styles with some recent contemporary developments throughout. Large, mature street trees enhance the pedestrian environment.

11. There are no mapped environmentally critical areas on the subject site.

<u>Proposal</u>

12. The proposal is to rezone 7 parcels of land:

    ▪ 3 parcels from NC1-40 (M2) (Neighborhood Commercial 1 with a 40' height limit and an MHA suffix of (M2)) to NC1-65 (M2) (Neighborhood Commercial 1 with a 65' height limit and a MHA suffix of (M2)); and

    ▪ 4 parcels from NC1-40 (M) (Neighborhood Commercial 1 with a 40' height limit and an MHA suffix of (M)) to NC1-65 (M1) (Neighborhood Commercial 1 with a 65' height limit and a MHA suffix of (M1)).

13. The proposed contract rezone is limited to an increase in height and resulting change in MHA suffix for a portion of the site.

14. The proposed project includes a 6-story, 114-unit apartment building with retail and restaurant elements. No parking is proposed.

15. Vehicular access is proposed from 22nd Ave. Pedestrian access is proposed from 23rd Ave and E Cherry St.

16. Existing structures are planned for demolition.

Zoning History and Potential Zoning Changes

17. The site is situated on a zone boundary: the western half of the site was rezoned from Single-family 5,000 to Neighborhood Commercial 1-40 (M2) on August 25, 2017, and the eastern half was rezoned from Neighborhood Commercial 1-30 to Neighborhood Commercial 1-40 (M) on that same date.

18. The zoning history (prior to 2017) for the western half of the property seeking a rezone (PIN 912610-1685, 1681, and –1695) is as follows:

    • 1947 Zoning Map: The zoning classification is identified as B.
    • 1973 Zoning Map (Ordinance 102076): The zoning classification is identified as RD5000.
    • 1995 Zoning Map (Ordinance 117434): The zoning classification is identified as Single Family 5000 (SF 5000).

19. The zoning history (prior to 2017) for the eastern half of the property seeking a rezone (PIN 912610-1730, 1725, and –1706) is as follows:

    • 1947 Zoning Map: The zoning classification is identified as B.
    • 1973 Zoning Map (Ordinance 102076): The zoning classification is identified as BN.
    • 1995 Zoning Map (Ordinance 117434): The zoning classification is identified as Neighborhood Commercial 1 with height limit 30’ (NC1-30'v).

20. The 23rd and Union-Jackson Residential Urban Village was established through ordinance 117221 in 1994 and was zoned to its current zoning (NC1-40 (M2) and NC1 40 (M)) in 2017.

21. On November 9, 2017, the City issued the MHA SEPA Final Environmental Impact Statement (FEIS). The citywide rezone was adopted, effective April 19, 2019, changing the zoning designation of the eastern portions of the parcel subject to the proposed rezone from NC1-30 to its current designation of NC1-40 (M). The western portions of the parcel were rezoned from SF 5000 to NC1-40 (M2). The MHA zoning changes generally rezoned large areas and did not examine the site-specific issue of this split-zoned parcel.

Urban Center Plan and Neighborhood Plan

22. The subject site is located within the area of the Central Area Neighborhood Plan. The original Central Area Neighborhood Plan was adopted on July 25, 1994 through Ordinance 117221 with additional portions adopted by City Council in 1998 (Ordinance #119216). The adopted Seattle 2035 Comprehensive Plan contains goals and policies specific to the Central Area Neighborhood.

23. Applicable sections of the Comprehensive Plan contain goals and policies specific to the Central Area Neighborhood. The following policies apply to the proposed rezone:

    Policy CA-P1 Strengthen a unique identity for the Central Area that celebrates its culture, heritage, and diversity; enhance the sense of community; and increase the feeling of pride among Central Area residents, business owners, employees, and visitors through excellent physical and social environments.

    Policy CA-P31 Encourage affordable housing in close proximity or with easy access to community assets and amenities.

    Policy CA-P39 Support vibrant, diverse, and distinct commercial districts that provide a range of goods and services for the entire community.

    Policy CA-P59 Seek opportunities within the commercial districts to create open spaces for community gathering. Policy

    CA-P66 Preserve small-scale neighborhood character, immigrant- and refugee-owned businesses while providing a greater variety of shops and services at 23rd and Cherry and an activated street frontage.

24. The adopted portions of the Central Area Neighborhood Plan located within the Seattle 2035 Comprehensive Plan include the following policy (CA-P7) that specifically refers to rezones:

    Policy CA-P7 Create a vibrant commercial district, encouraging dense urban development in the commercial areas and encouraging housing supportive of the community through land use tools, such as rezones, design guidelines, and incentives.

    <u>Public Comment</u>

25. The original notice of application public comment period ended on August 23, 2021; the project was subsequently re-noticed with a public comment period that ended on March 29, 2023. In addition to the comments received through the Design Review process, other comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to the proposed rezone, density, cultural resources, transportation/traffic, noise, and construction impacts.

26. At the July 19, 2023 public hearing on the rezone before the Hearing Examiner, public comment was received from several members of the neighborhood expressing concern. Yana Morgulis, owner of a home north of the proposal, expressed concern about solar impacts to neighborhood and incompatibility of project with the neighborhood. Tyler Gibson supports the proposal, but believes that it is out of scale with the neighborhood.

27. Kateesha Atterberry spoke to details of the proposal, and equity issues the proposal seeks to address.

28. Donald King, architect spoke to various elements of the proposal.

Director's Review

29. The Director analyzed the proposal's potential long-term and short-term environmental impacts and found that there would be no need to recommend conditions to mitigate proposal-related impacts, as there were no significant impacts identified or any impacts would be addressed by the requirements of the Code.

30. The Director's report, Exhibit 1, analyzes the proposed contract rezone and recommends that it be approved with conditions.

Applicable Law

31. 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.

32. 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.

33. 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. SMC 23.34.008 requires that, within an urban center or urban village, the zoned capacity, taken as whole, is to be no less than 125 percent of the applicable adopted growth target, and not less than the density established in the Comprehensive Plan.

5. The site is located within the 23rd and Union-Jackson Residential Urban Village. The Growth Strategy Appendix of the 2035 Comprehensive Plan estimated 2015-2035 housing unit growth of 1,600 units in addition to the 5,451 existing units (2015 year-end total housing units); 7,051 total units. In 2022, there was an estimated 8,334 existing units with an additional capacity of 3,928-4,765 units under existing zoning. The proposed rezone would further increase existing zoned capacity.

6. The densities established for a Residential Urban Village in the Growth Strategy Element of the 2035 Comprehensive Plan is 12 dwelling units per gross acre. The boundary of the 23rd and Union-Jackson Residential Urban Village was expanded in 2019 to encompass 625 gross acres (Ord. 125790) and has an existing zoned capacity of 12,262-13,099 housing units as of 2022 (8,334 existing units with an additional capacity of 3,928-4,765 units), or 19.6-21.0 housing units per acre. The proposed rezone will increase zoned capacity and zoned density by allowing for additional building height of 25-feet and approximately 41 additional units. Therefore, the zoned capacity for the Residential Urban Village is not less than this density established in the 2035 Comprehensive Plan.

7. The proposed rezone is consistent with SMC 23.34.008.A.1 because the increase in zoned capacity does not reduce capacity below 125% of the 2035 Comprehensive Plan growth target.

8. The proposal is also consistent with SMC 23.34.008.A.2 because the proposed change would not result in less density for this zone than the density established in the Growth Strategy Element of the Comprehensive Plan.

Match Between Zone Criteria and Area Characteristics

9. 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.

10. No change to the existing NC1 zone designation is proposed, and the criteria for designation of commercial zones in SMC 23.34.072 are not part of this proposal. The NC1 zone criteria in SMC 23.34.074 continue to match the characteristics of the area. NC1 is the predominant commercial zone designation at the intersection of E Cherry St and 23rd Ave.

Neighborhood Plan/Precedential Effect

11. The proposed rezone is in conformance with the applicable policies of the Central Area Neighborhood Plan.

12. The site is located in the 23rd Ave and Union-Jackson Residential Urban Village. The development proposal associated with this rezone includes 9 non-residential spaces and 112 multi-family residential units, which is consistent with this policy to encourage vibrant commercial uses that activate the street frontage and affordable housing supportive of the community. The outdoor public amenity space flanked by small-scale community based retail will promote social gathering and express the Central Area's unique and diverse heritage and identity. Finally, the proposed rezone would provide more housing and retail at the 23rd Avenue and East Cherry Street intersection, increasing the number of people who will benefit from community assets including parks/open space, Garfield High School and Community Center, teen center, arts programs, and small businesses, in particular ethnic restaurants, that create a unique identity for this community-serving node.

13. Considering the denser development patterns and taller height limits found at the intersection of 23rd and Jackson (75' height) and 23rd and Union (75' height), along the 23rd Avenue corridor, the proposed rezone (65' height) allows for needed affordable housing, additional community-based retail, and community gathering spaces while maintaining the smaller-scaled node intent laid out in the 2035 Comprehensive plan.

14. The proposal is unlikely to have a precedential effect. This proposed rezone does not preclude other properties in the area from requesting a contract rezone, and as each proposal is evaluated individually in the context of the existing conditions, this rezone is not expected to be precedential.

<u>Zoning Principles</u>

15. 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.

16. The predominant zoning pattern within the immediate context is 30' height residential small lot to the north and west, 40' height lowrise residential and neighborhood commercial to the south, southwest and east, and 55' height neighborhood commercial further down East Cherry Street to the east. Although there are no examples of 65' height zones in the immediate context, there are locations within the 23rd and Union-Jackson Residential Urban Village, such as the context around the intersection of South Jackson Street and 23rd Avenue South a half mile to the south, and East Union Street and 23rd Ave a third of a mile to the north, where higher zoning (75' in height) exists with similar adjacent transitions to 30' height neighborhood residential and residential small lot zones. In some instances, the transition includes buffers, such as a right-of-way street/alley, but in other instances the transition occurs along shared property lines.

    The development proposal utilizes top level setbacks along each of the 23rd Avenue and East Cherry Street frontages, larger than required setbacks on the top two floors along the north property line, and the large carve out that is the central public courtyard along East Cherry Street to help minimize the overall impact of the height, bulk, and scale on the adjacent properties and gradually

transition onsite to the lower zoning heights surrounding the development site and the 23rd and Union-Jackson Residential Urban Village.

Within the immediate vicinity, there is evidence of more intense commercial zones located adjacent to less intense neighborhood residential zones and many examples of transitions in zoning intensity at similar key intersections in the 23rd and Union Jackson Residential Urban Village.

17. The proposed rezone is limited to an increase in the height limit from 40' to 65' and change in MHA suffix for a portion of the site. Since the existing NC1 zoning designation is not proposed to change, the uses associated with the proposed development would be allowed under existing zoning and do not represent a change in the intensity of use than could otherwise occur.

18. 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 recommended for approval by the Design Review Board includes design strategies to address the appearance of height, bulk, and scale. The design review process also considered the transition to adjacent properties, to mitigate the impacts of the zone edge facing the neighboring properties.

19. The proposed rezone would maintain the existing pattern of commercially-zoned properties facing commercially-zoned properties across the street on both 23rd Avenue and East Cherry Street and commercially-zoned properties facing residential small lot properties across the street on 22nd Avenue. The proposed rezone will not create a new boundary between commercial and residential areas.

20. The proposed NC1-65 (M1/M2) zone would permit building heights greater than 55 feet. The site is located within the 23rd and Union-Jackson Residential Urban Village, thereby satisfying the rezone criteria in SMC 23.34.008.E.4.

<u>Impact Evaluation</u>

21. The proposed rezone would positively impact the housing supply, as it would increase residential unit supply.

22. 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.

23. The Director evaluated impacts on public services and service capacities, as well as noise, air quality, water quality, flora and fauna, glare, odor, shadows, energy, and other environmental impacts, pursuant to SEPA, and indicated that no additional conditions were required to mitigate impacts that are not otherwise adequately addressed through existing regulations. Height, bulk and scale impacts, including shadow impacts, will be reviewed and addressed through the design review process.

Changed Circumstances

24. Changed circumstances are to be considered, but are not required to demonstrate the appropriateness of a proposed rezone. The City has continued to emphasize growth in urban centers and villages in its Comprehensive Plan as the areas that are most appropriate for accommodating higher density development. The MHA upzone is a changed circumstance in the area effecting area zoning.

Height Limits

25. 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.

26. Function of the zone. The proposed rezone lies within the boundaries of the 23rd and Union-Jackson Residential Urban Village and would allow increased density in this urban village. The existing NC1-40 zoning allows a combination of multifamily and commercial uses. The proposed rezone would allow an additional 25' in height and would increase the capacity for multifamily residential uses. The variety and size of commercial uses that are allowed would not change. There will be no displacement of preferred uses.

27. 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 height increase associated with the rezone proposal combined with the nature of existing zoning heights and topography surrounding the site make significant impacts to views surrounding the site unlikely. The site sits at the northwest corner of the intersection of E Cherry St and 23rd Ave at a low point with topography generally increasing to the north and south along 23rd Avenue, and to the west along E Cherry Street. Topography remains relatively flat along E Cherry Street and then increases 6 blocks to the east.

    The proposed rezone would result in a 25-foot increase in permitted height from the 40 foot limit in the current NC1-40 (M/M2) zone to a 65-foot limit in the proposed NC1-65 (M1/M2) zone. The additional 25-feet of permitted height is unlikely to impact views from adjacent sites as the site is surrounded by streets on three sides, is downslope from shorter permitted heights within the neighborhood to the west, and abuts existing two story residences along the north property line.

    Although the placement of the proposed development may inhibit existing views from the two-story residences along the north property line, these views would also be inhibited by development reaching the currently permitted 40-foot height limit. Due to the relatively tall height allowed under current zoning and topography of the surrounding area, the additional 25 feet of height is unlikely to block views from surrounding or uphill vantage points.

28. 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. Further, height limits are to be compatible with actual and zoned heights in surrounding areas, and a gradual transition in height and scale and level of activity between zones is to be provided unless major physical buffers are present.

    The existing zoning of this site is NC1-40 (M/M2). The proposed zoning is NC1 65(M1/M2). In the NC1-40 zone, an additional 4' of building height may be obtained through the requirements in SMC 23.47A.012.A. A 65' NC zone does not allow additional height per SMC 23.47A.012.A. Other rooftop features are permitted above the 40' and 65' height limit per SMC 23.47A.012.C, including mechanical equipment and stair/elevator penthouses such as the ones proposed with this development.

    The current height limit at this site is 40'. Nearby zones include height limits of 30', 40', 55' and 75'. The proposed development would be compatible with the predominant height and scale of nearby newer development elsewhere in the 23rd and Union-Jackson Residential Urban Village, which is representative of the area's anticipated overall development potential.

    The predominant existing development in this area is older, and generally not built to the 40' height limit, and there is additional capacity for more retail and residential development. It appears, therefore, that existing development is not a good measure of the area's existing development potential.

29. Compatibility with Surrounding Area.

    The proposed development is 65' in height (not inclusive of allowable rooftop features per SMC 23.47A.012.C), and includes setbacks and modulation at the west, east, north and south property lines. The proposed rezone would be consistent with the scale of newer development within the 23rd and Union-Jackson Residential Urban Village, such as the context around the intersection of South Jackson Street and 23rd Avenue South a half mile to the south, and East Union Street and 23rd Ave a third of a mile to the north, where higher zoning (75' in height) exists with similar adjacent transitions to lower height neighborhood residential (30' in height) and residential small lot zones.

    The proposed development associated with the rezone has gone through the design review process per SMC 23.41. The design review process recommended a design with specific strategies to reduce the impacts of additional height, bulk, and scale to the adjacent sites, including upper-level massing setbacks along each frontage of the site. These upper-level massing setbacks were proposed through the design review process to allow the proposed mixed-use development to appropriately address the shorter building heights surrounding the development site and help mitigate the impact of the proposed 65-foot height limit.

30. Neighborhood Plans. The Central Area Neighborhood Plan policies included in the Seattle 2035 Comprehensive Plan do not explicitly address building heights. The proposed development has

gone through the Design Review process, which considered aspects of scale and context in the design recommendation.

31. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the subject site is NC1-65 (M2) for three parcels and NC1-65 (M1) for four parcels 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:

Prior to Issuance of a Building Permit

1. Plans for development of the rezoned property shall be in substantial conformance, as determined by the Director, with the approved plans for Master Use Permit number 3037185 LU.

The Director has recommended the following SEPA conditions:

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

1. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website.
2. Provide an archaeological monitoring and inadvertent discovery plan prepared by a qualified professional and include statement that the Duwamish Tribe shall be notified in the event of archaeological work.

The Director has imposed the following design review conditions on the proposal:

For the Life of the Project

1. The building and landscape design shall be substantially consistent with the materials presented 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.

Entered August 17, 2022.

/s/Ryan P. 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.

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

CERTIFICATE OF SERVICE

I 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 **FINDINGS AND RECOMMENDATION** to each person listed below, or on the attached mailing list, in the matter of **BENJAMIN MARITZ**. Case Number: **CF-314474** in the manner indicated.

Party	Method of Service
Applicant Benjamin Maritz admin@grtexp.co	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Fax ☐ Hand Delivery ☐ Legal Messenger
Department David Sachs SDCI David.Sachs@seattle.gov SCI Routing Coordinator SCI_Routing_Coordinator@seattle.gov Janet Oslund janet.oslund@seattle.gov SCI_LUIB SCI_LUIB@seattle.gov Nathan Torgelson nathan.torgelson@seattle.gov Roger Wynne roger.wynne@seattle.gov Ketil Freeman ketil.freeman@seattle.gov	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Fax ☐ Hand Delivery ☐ Legal Messenger

Public Commentors Yana Morgulis 722 22nd Ave. Seattle, WA 98122 Tyler Gibson 712 22nd Ave Seattle, WA 98122	☒ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☐ E-mail ☐ Fax ☐ Hand Delivery ☐ Legal Messenger
Mailing SARAH@SCHEMATAWORKSHOP.COM; ADMIN@GRTEXP.CO; BEN.MARITZ@GMAIL.COM; SHWETA@SCHEMATAWORKSHOP.COM; abutton@me.com; alexstonehill@gmail.com; anag@ggnltd.com; bakerew@hotmail.com; ben@grtexp.co; beth904@gmail.com; bill.zosel@gmail.com; camilaborgesm8@gmail.com; cavandervoort@gmail.com; dan.chhan@gmail.com; deoryp@gmail.com; ecotours@duwamishtribe.org; gr8gck@gmail.com; grace@schemataworkshop.com; hamaler78@gmail.com; io@nakanoassociates.com; jfoxcullen@gmail.com; jill.leininger@gmail.com; joeb@joebrotherton.com; joyjake5@msn.com; jsbjorn@icloud.com; kateesha@urbanblackllc.com; kenny@globalinvestorsolutions.com; kyra@grtexp.co; lawrencenorman@hotmail.com; liz@dunnandhobbes.com; MERYLDOUGLAS@GMAIL.COM; mia@grtexp.co; mike@schemataworkshop.com; mktyson@gmail.com;	☐ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☒ E-mail ☐ Fax ☐ Hand Delivery ☐ Legal Messenger

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Mailing ABDIRAHMAN MUHUMED 125 SW 112TH ST #306 SEATTLE WA 98146	☒ U.S. First Class Mail, postage prepaid ☐ Inter-office Mail ☐ E-mail ☐ Fax ☐ Hand Delivery

SOLEIMAN JAMA 16043 MILITARY RD S #209 SEATAC WA 98188 ABDIRAHMAN MOHAMED BILLE 27012 115TH PL SE KENT WA 98030 MUKFAR RASHID HODAN RAGE 3014 S WILLOW ST SEATTLE WA 98108 ABDIHAKIM AL-HASSAN 6744 16TH AVE SW SEATTLE WA 98106 SAKARIYA ARTAN HASSAN ADEM AHMED ABDI 6801 S 133RD ST APT #C236 SEATTLE WA 98178 MOHAMUD HASSAN YUSUF BURALE 7401 RAINIER AVE S #122 SEATTLE WA 98118 MOHAMED ADEN DUR DUR CAFE 2212 E CHERRY ST SEATTLE WA 98122 ADAL SHIMELIS UPDATE BARBER SHOP 2210 E CHERRY ST SEATTLE WA 98122 MOHAMED HASSAN 2210 E CHERRY ST #B SEATTLE WA 98122 TSEGA MBUSE 2210 E CHERRY ST #201 SEATTLE WA 98122	☐ Legal Messenger

GHMAI GEBREHIWOK 2210 E CHERRY ST #202 SEATTLE WA 98122 JOETTA SALES 2210 E CHERRY ST #203 SEATTLE WA 98122 YEMANE WUNA 2210 E CHERRY ST #204 SEATTLE WA 98122 SUQUAMISH TRIBE* PO BOX 498 SUQUAMISH, WA 98392	
Mailing QUICK INFORMATION CENTER SEATTLE PUBLIC LIBRARY LB-03-01	☐ U.S. First Class Mail, postage prepaid ☒ Inter-office Mail ☐ E-mail ☐ Fax ☐ Hand Delivery ☐ Legal Messenger

Dated: August 18, 2023.

____/s/ Angela Oberhansly
Angela Oberhansly
Legal Assistant

Exhibit 3 - Draft Findings, Conclusions and Decision

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

In the matter of the Petition:	)	Clerk File 314474
	)	
Application of Acer House, LLC, for a contract rezone of a site located at 2210 East Cherry Street from Neighborhood Commercial 1 with a 40 foot height limit and M Mandatory Housing Affordability suffix (NC1-40 (M)) to Neighborhood Commercial 1 with a 65 foot height limit and M1 Mandatory Housing Affordability suffix (NC1-65 (M1)) and from Neighborhood Commercial 1 with a 40 foot height limit and M2 Mandatory Housing Affordability suffix (NC1 40 (M2)) to Neighborhood Commercial 1 with a 65 foot height limit and M2 Mandatory Housing Affordability suffix (NC1-65 (M2)) and accepting a Property Use and Development Agreements as a condition of rezone approval. (Application of Acer House, LLC, C.F. 314474, SDCI Project 3037185-LU).	)	FINDINGS, CONCLUSIONS, AND DECISION

Introduction

This matter involves a petition by Acer House, LLC ("Applicant"), for a contract rezone of an approximately 19,000 square foot site located at the northwest corner of the intersection of East Cherry Street and 23rd Avenue.

The site is split-zoned with the eastern portion zoned Neighborhood Commercial 1 with a 40-foot height limit and M Mandatory Housing Affordability (MHA) suffix (NC1-40 (M)) and the western portion zoned Neighborhood Commercial 1 with a 40-foot height limit and M2 Mandatory Housing Affordability suffix (NC1 40 (M2)). The proposed rezone would be to a

DRAFT

Neighborhood Commercial 1 zone with a 65-foot height limit. The Mandatory Housing Affordability suffix for the eastern portion of the site would increase to M1 and stay at M2 for the western portion. Attachment A shows the area to be rezoned. Attachment B provides a legal description of the site.

The Applicant has applied for a permit to redevelop the site with a mixed-use building developed in an Afro-futurist style and palette with 114 apartment units and street-level commercial uses. The Applicant intends to satisfy MHA program requirements through on-site performance and participate in the Multi-family Tax Exemption Program.

On June 8, 2023, the Seattle Department of Construction and Inspections (SDCI) issued an affirmative recommendation to conditionally approve the application. On July 19, 2023, the Hearing Examiner held an open-record public hearing on the proposed rezone. On August 17, 2023, the Hearing Examiner recommended conditional approval. On October 20, 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 Clarified Findings and Recommendation of the Hearing Examiner dated August 17, 2023.

Conclusions

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Clarified Findings and Recommendation of the Hearing Examiner dated August 17, 2023.

Decision

The Council hereby **GRANTS** a rezone parcels 912610-1705, 912610-1725, 912610-1730, and 912610-1706 of the property from NC1-40 (M) to Neighborhood Commercial 1 with a 65 foot height limit and M1 Mandatory Housing Affordability suffix (NC1-65 (M1)) and parcels 912610-1695, 912610-1685, and 912610-1681of the property from NC1 40 (M2) to Neighborhood Commercial 1 with a 65 foot height limit and M2 Mandatory Housing Affordability suffix (NC1-65 (M2)) of the property from, as shown in Attachment A.

The rezone is subject to the execution of a Property Use and Development Agreement (PUDA) requiring the owners to comply with certain conditions for the life of the project. Those conditions are adopted by the Council as follows:

Prior to Issuance of a Building Permit

1. Plans for development of the rezoned property shall be in substantial conformance, as determined by the Director, with the approved plans for Master Use Permit (MUP) Number 3037185-LU.

Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit

1. Provide a Construction Management Plan that has been approved by the Seattle Department of Transportation (SDOT). The submittal information and review process for Construction Management Plans are described on the SDOT website.
2. Provide an archaeological monitoring and inadvertent discovery plan prepared by a qualified professional and include statement that the Duwamish Tribe shall be notified in the event of archaeological work.

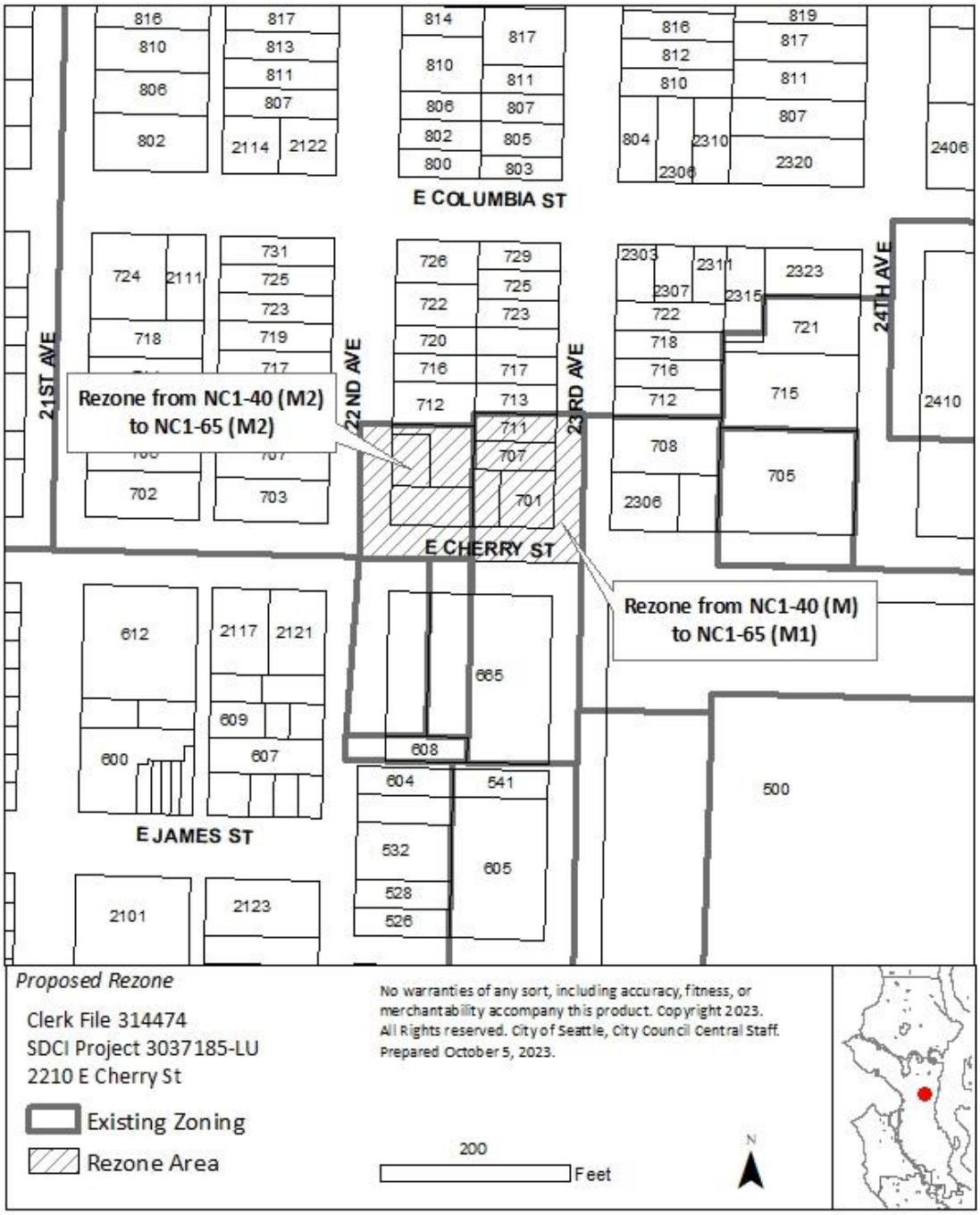
For the Life of the Project

1. The building and landscape design shall be substantially consistent with the materials presented at the Design Review Board 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 a Land Use Planner at the Seattle Department of Construction and Inspections.

Dated this _____ day of _____, 2023.

_____
City Council President

ATTACHMENT A



ATTACHMENT B

PARCELS #912610--1695, 912610--1685 & 912610--1681

(PER STEWART TITLE INSURANCE COMPANY ORDER NO. 820537, DATED JUNE 30, 2020)

PARCELS A, C, AND C, CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 3032095-LU, RECORDED UNDER RECORDING NO. 20181024900003, RECORDS OF KING COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF KING STATE OF WASHINGTON.

PARCEL #912610--1705

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523432, DATED JULY 15, 2020)

THE EASTERLY 2/3 OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1725

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547292, DATED AUGUST 07, 2020)

LOT 13, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1730

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3547283, DATED AUGUST 07, 2020)

LOT 14, BLOCK 17 WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

PARCEL #912610--1706

(PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. 4201--3523524, DATED JULY 15, 2020)

THE WEST ONE-THIRD OF LOTS 11 AND 12, BLOCK 17, WALLA WALLA ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 81, IN KING COUNTY, WASHINGTON.

Legislation Text

File #: Inf 2348, **Version:** 1

Audit on the Construction Permitting Process

The report is provided as an attachment.

City's Construction Permitting Needs More Customer Focus and Consistency

October 18, 2023

Melissa Alderson

Andrew Scoggin

David G. Jones, City Auditor

Seattle Office of City Auditor

City's Construction Permitting Needs More Customer Focus and Consistency

Report Highlights

Background

In this audit, we reviewed the City of Seattle's (City) construction permitting process from the intake stage through corrections. The Seattle Department of Construction and Inspections (SDCI) is responsible for reviewing and issuing construction permits, though other City departments are often involved as well. In 2022, SDCI issued about 8,800 construction permits.

What We Found

We identified issues in the following areas:

- **Reinforce a customer focus**: SDCI does not actively track total permit review time, which is an important metric to customers. The City also lacks a process to routinely collect customer feedback.
- **Promote transparency and fairness**: We found inconsistencies and opaqueness in how construction permit applications are prioritized. Some SDCI employees shared concerns about fairness and ethics.
- **Strengthen a Citywide approach**: The City has engaged in permitting improvement efforts, but not all identified changes have been made. Additionally, there is not a unified approach to funding staff, nor an effective strategy for supporting permitting software.
- **Standardize review comments**: We found inconsistencies in how corrections are issued and evaluated for quality.

Recommendations

We make 11 recommendations to address the issues above. We recommend that SDCI improve permit timeliness tracking and use customer feedback to make process improvements. SDCI should also improve the permit prioritization process and evaluate its internal ethical culture. The City should act on permitting recommendations from past improvement efforts, re-evaluate department funding structures for permit staff, and develop a strategy for supporting permitting software. Finally, we recommend SDCI develop a standard process for performing and evaluating permit corrections.

Department Response

SDCI generally concurred with the findings and recommendations (see Appendix A).

WHY WE DID THIS AUDIT

This audit was conducted in response to Seattle City Councilmember Dan Strauss' request for our office to review the construction permitting process. Specifically, we reviewed:

- Process clarity, consistency, and timeliness
- The use of information technology tools
- Race and Social Justice Initiative impacts

HOW WE DID THIS AUDIT

To accomplish the audit's objectives, we:

- Analyzed construction permit application data
- Interviewed City officials who are involved in the permitting process
- Surveyed and interviewed permit applicants
- Researched construction permitting best practices

Seattle Office of City Auditor
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www.seattle.gov/cityauditor

TABLE OF CONTENTS

INTRODUCTION **1**

REINFORCE A CUSTOMER FOCUS **3**

PROMOTE TRANSPARENCY AND FAIRNESS **8**

STRENGTHEN CITYWIDE APPROACH **13**

STANDARDIZE CONSTRUCTION PERMIT REVIEW COMMENTS **18**

OBJECTIVES, SCOPE, AND METHODOLOGY **21**

APPENDIX A **23**
Department Response 23

APPENDIX B **24**
List of Recommendations and Department Response 24

APPENDIX C **29**
Results of Audit's Construction Permit Applicant Survey 29

APPENDIX D **30**
Seattle Office of City Auditor Mission, Background, and Quality Assurance 30

INTRODUCTION

Audit Overview

Seattle City Councilmember Dan Strauss requested that we examine the City of Seattle's (City) process for reviewing construction permits. Our objectives were to answer the following questions:

- Are there opportunities to improve the clarity, consistency, and timeliness of the permitting process?
- Is the City using the full potential of its permitting information technology tools?
- Is the City's permitting process contributing to its Race and Social Justice Initiative (RSJI) goals?

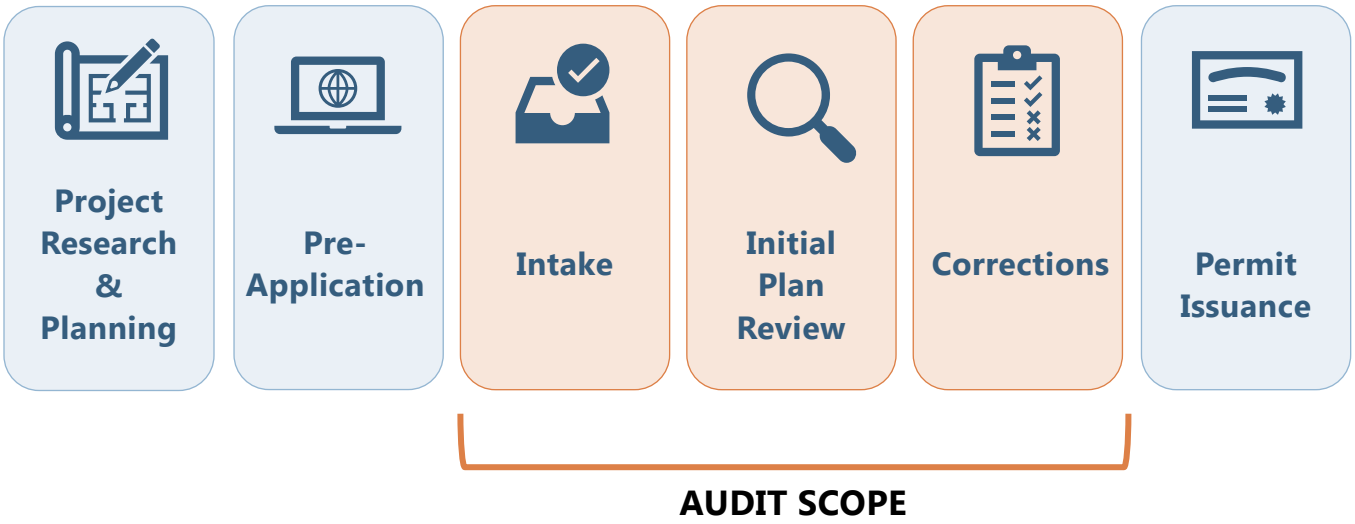
The scope for this audit included construction permit applications that were under review in 2021 and 2022. The Seattle Department of Construction and Inspections generally concurred with the report's findings and recommendations (see Appendix A). The audit team for this project included Melissa Alderson and Andrew Scoggin, with contributions from Miroslava Meza.

Background

The Seattle Department of Construction and Inspections (SDCI) reviews and approves construction permits for the City of Seattle. SDCI is responsible for regulating and ensuring compliance with building and land use codes and policies. Construction permits are one type of permit that SDCI issues. Construction permits can be for new buildings or additions and alterations and can require a detailed plan review or a more abbreviated subject-to-field-inspection review. SDCI has issued about 8,800 construction permits in 2022.

The permitting process takes multiple steps and can involve other City departments. Customers first apply to SDCI for a pre-application and request an online intake appointment, during which the application is reviewed for overall completeness. Once the intake is completed and approved, SDCI assigns the application to the relevant review teams, which provide corrections to the applicant as needed to ensure compliance with building code and all other applicable codes and ordinances. Other City departments that can review and approve aspects of construction permits include Seattle City Light, Seattle Public Utilities, and the Transportation, Fire, Neighborhoods, Housing, and Parks and Recreation departments. SDCI issues the permit once the applicant has addressed all corrections and paid the final fees. Our audit focuses on the construction permitting process from the intake stage through corrections (see Exhibit 1).

Exhibit 1: We examined the construction permitting process from intake through corrections



Source: Seattle Office of City Auditor.

REINFORCE A CUSTOMER FOCUS

Section Summary

In this section, we identify ways the Seattle Department of Construction and Inspections (SDCI) can improve customers' experience with the construction permitting process. We found that SDCI does not actively track total permit review time, which is an important metric to customers. We also found that the City lacks a process to routinely collect customer feedback on the permitting process. This means that the full extent of permitting barriers is unknown and cannot be addressed. We make recommendations to improve timeliness tracking and use customer feedback to make process improvements.

SDCI should reevaluate its construction permit tracking metrics and reporting methods to reduce review times

SDCI's current tracking metrics focus heavily on one part of the construction permit review process. SDCI's department-level target goals are only for applications' first-round review. The length of subsequent rounds is not tracked at the department level. As a result, SDCI focuses mostly on how long this first review takes instead of overall review time. We observed it was difficult to get accurate, up-to-date publicly available information on how long construction permits take to review and approve. Customers also pointed to this as an issue and requested more transparency on permit review times.

There is a lack of incentive for reviewers to consider the overall timeliness of permit applications. Reviewers are assigned due dates that dictate each round of review should take a certain number of days. However, SDCI does not actively track total review time for a permit while it is under review. Reviewers are held accountable for the length of individual review rounds but not overall permit application timeliness.

"Gaining transparency into each reviewer's queue would be a huge help, allowing design teams to better plan workflow/next steps."

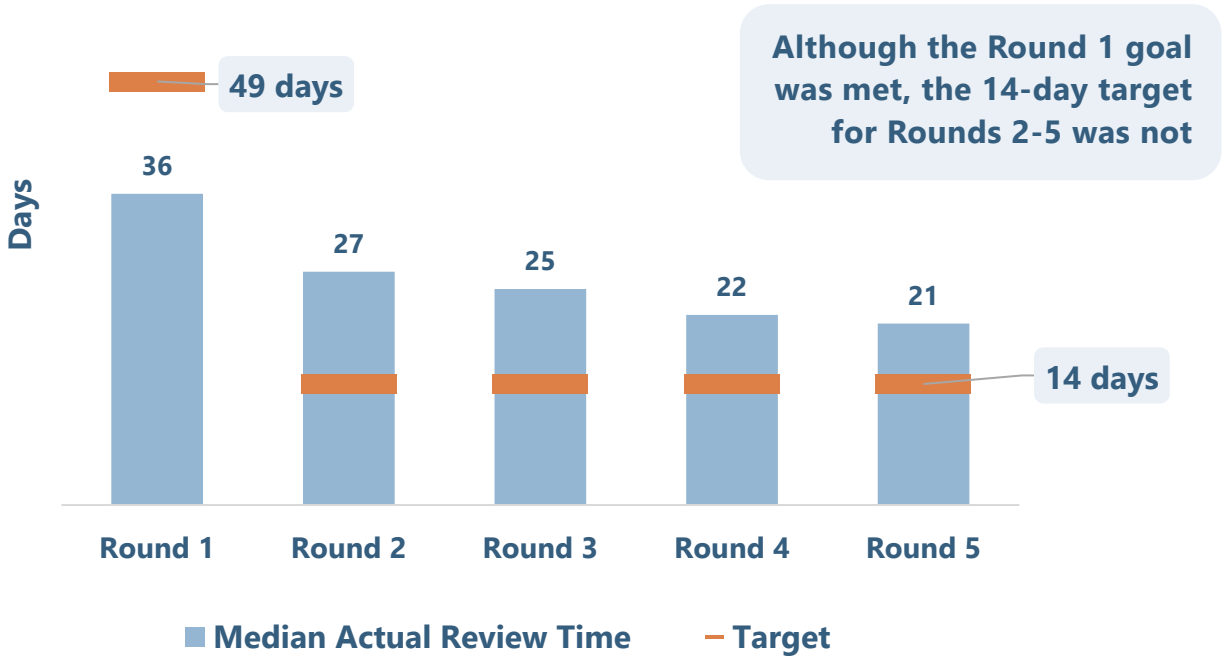
- frequent permit applicant

There are other challenges related to assigning and tracking work that may impact timeliness. After SDCI approves the intake of a permit application, supervisors assign the relevant staff to review the project. Once assigned, reviewers have access to the project in their online dashboard. However, SDCI does not consistently assign all reviewers to a project at the same time. We observed and SDCI employees said that sometimes staff are not assigned to review a permit application until near or past the target review date. SDCI supervisors also told us that they lack effective technology tools to track what reviewers are working on and monitor progress.

The City is not consistently meeting targets for the time it takes to review permits. We analyzed how long the City spent reviewing construction permit applications in 2021 and 2022. Among

applications with at least one review round completed, the median application spent 50 days in City review. But at least 10 percent of applications took at least 145 days, which is beyond the standard 120-day deadline specified by state law. Also, subsequent rounds of review beyond the first round do not appear to meet internal targets that the City sets for reviewers. For example, the median for a second-round review is nearly double the target (14-day target versus 27-day median). See Exhibit 2 for a comparison of internal review targets and actual review time by round.

Exhibit 2: City reviews beyond Round 1 do not meet internal targets



Source: Office of City Auditor analysis of Seattle construction permit data, 2021-2022

Due to the complexity of and exemptions within state law, we could not determine how often the City is out of compliance with required timelines. According to SDCI management, a new state law taking effect in 2025 will exempt construction permits from existing law, including required timelines.

Some applicants say adding time to the review process has negative impacts on their projects. We conducted a targeted survey of applicants with a high number of correction rounds to get their feedback. Out of 117 applicants we attempted to contact, 38 responded—82 percent said the timeline to get their permit was not reasonable. They said the timing of their applications had the following impacts:

- Increased costs or lost revenue

- Higher rents
- Difficulty working with lenders and raising money
- Abandoned projects
- Contractors losing or abandoning work or being motivated to "proceed with unauthorized work"

Recommendation 1

The Seattle Department of Construction and Inspections (SDCI) should develop metrics by construction permit type for total review time and a tracking process to support meeting those metrics. The metrics and SDCI's progress on meeting those metrics, along with the methodology and notices of any data limitations, should be displayed on SDCI's website and updated regularly. The data should meet the needs and expectations of customers and include other City departments' review times. SDCI should also consider whether to publish its review queue on its website.

SDCI lacks a systematic process to get customer feedback, which means that customers' needs may not be met

The City lacks a method to routinely collect customer feedback on the permitting process. SDCI's vision from their strategic plan is "to set the standard for awesome local government service." However, they do not have performance measures to evaluate how well they are achieving this goal and meeting customers' expectations over time.

Customers are frustrated with aspects of the permitting process. In our targeted survey of applicants, 66 percent (25 of 38) said they were dissatisfied with the process. Also, 61 percent said it was not clear who to contact in the City if they had a question, and 42 percent said reviewers did not answer their questions timely when they did contact them (Exhibit 3). See Appendix C for the full summary results of the survey.

Exhibit 3: Respondents to targeted survey were unhappy with process and communication

Source: Seattle Office of City Auditor analysis of applicant survey results.

"We had to involve an attorney, which helped as they had contacts to straight sources and were able to get answers"

- survey respondent

A 2020 study on the City's public permitting portal showed several areas for improvement. Customers use the City's online Seattle Services Portal to apply for construction permits. The study evaluated how easy the portal is to use by asking participants to complete tasks and rate their experience. Their satisfaction with the portal averaged 5.5 out of 10. Participants said the portal was confusing and lacked user guidance.

Customer service, review inconsistencies, and permit timeliness are common issues for applicants. We interviewed frequent permit applicants and asked about their experience with the construction permitting process. Many cited poor customer service as a common issue and noted it was difficult to reach permit reviewers by phone. Another applicant concern was permit reviewers being inconsistent in how they reviewed applications, both within SDCI and across City departments. Applicants said that it appeared that not all departments were following the same process. Permit timeliness was also a frustration, and applicants expressed desire for more transparency and consistency around SDCI's review timelines.

The City's Racial Equity Toolkit can uncover equity impacts. The City's Race and Social Justice Initiative (RSJI) Racial Equity Toolkit (RET) process requires that departments involve stakeholders in their development, implementation, and evaluation of programs. The RET directs departments to, "Gather information from community and staff on how the issue benefits or burdens the community in terms of racial equity."

"I cannot imagine what it would be like for someone who is new to the system or doesn't know technology or possibly has English as a second or third language. Impossible to navigate."

- frequent permit applicant

A RET is one of the primary ways the City identifies and examines potential equity issues of its programs. Ideally, City departments should complete the RET before they implement a new program, so that staff can be aware of and mitigate any unintended impacts. The City did not complete a RET for the implementation of their permitting software system, Accela. Further, we could not find evidence that SDCI has completed a RET related to reviewing construction permits or identified racial equity actions that are specific to the permitting process. Representatives from SDCI and the Seattle Office for Civil Rights told us there is value in completing a RET because process barriers likely exist, and improvements to the permitting process are still possible.

The full extent of permitting barriers is unknown and therefore cannot be addressed. The permitting process is complex and favors experienced customers and large developers. This is because experienced customers have familiarity and in-depth knowledge of the process, and large developers have specialized expertise and resources to support their projects. First-time applicants, homeowners, and small businesses may have more difficulty navigating the process and getting their permit approved when they need it. In our review of

construction permit application guidance, we found some potential barriers that some customers may face:

- Customers must create and submit construction permit applications online using software that may be difficult for some users to learn and navigate.
- The City does not offer in-person appointments for permit customers to meet with City staff. This limits customers' options to communicate with City permit reviewers to methods that require a computer and internet connection, which may create accessibility issues.
- Some of SDCI's online resources, including their "Tips" sheets, are only in English.

Without direct feedback from customers on the challenges they face, the City cannot evaluate the performance of the permitting process from the customers' perspective and make improvements to address equity issues.

Recommendation 2

The Seattle Department of Construction and Inspections (SDCI) should address potential permitting barriers and equity concerns by incorporating the City's Race and Social Justice Initiative (RSJI) values into the permitting process. This should involve completing a Racial Equity Toolkit (RET) for the entire permitting process or several RETs for specific parts of the process. SDCI should consult with the Seattle Office for Civil Rights for RET guidance and support and with other City departments that are involved in permitting or have a stakeholder interest.

In the RET, SDCI should evaluate the accessibility of their current process and tools, including considering the needs of customers who lack computer skills, people with disabilities, and people with limited English proficiency, among others. The RET should also include a stakeholder analysis to determine who is impacted by the permitting process and from whom SDCI should get regular feedback. The City should implement the recommendations that result from this effort.

Recommendation 3

The Seattle Department of Construction and Inspections (SDCI) should develop a strategic customer engagement program for their construction permitting process, which could include:

- **Establishing customer service and satisfaction baseline data.**
- **Defining performance measures that relate to SDCI's strategic goals.**
- **A process to routinely monitor performance measures.**
- **Defined roles for SDCI employees who are responsible for implementing process improvements.**

PROMOTE TRANSPARENCY AND FAIRNESS

Section Summary

In this section, we discuss how the City can improve the transparency and fairness of the construction permitting process. We found inconsistencies in how construction permit applications are prioritized. Permit prioritization criteria are not made public, which means not all customers have knowledge of how their project should be prioritized. Some employees within the Seattle Department of Construction and Inspections (SDCI) expressed concerns and confusion about the ethical culture surrounding the construction permitting process. We make recommendations to improve the permit prioritization process and for SDCI to evaluate its ethical culture.

The City is inconsistent and opaque in how it prioritizes permit applications, which may result in unfair treatment of customers

SDCI has internal guidelines for how it prioritizes construction permit applications. SDCI's Plan Review Priorities Guideline is an internal document that SDCI intake staff use to assign permit applications a priority ranking. The stated intent is to prioritize certain permit applications "to promote the health, safety, and welfare and to serve special needs." Examples of projects that are supposed to be prioritized include:

- Life safety emergencies
- Projects with serious anomalous issues
- Affordable housing
- Emergency housing shelters
- Projects identified by the SDCI director

Some of these priority rankings have specified review timelines and some do not. We noted that the Plan Review Priorities Guideline does not give priority to projects relating to medical or disability accommodations. SDCI may want to consider reviewing the prioritization criteria to ensure it is meeting the department's intent of serving special needs.

The City does not prioritize construction permit applications in a consistent and transparent way. We found that not all City departments were aware of SDCI's prioritization criteria for permit applications. This means that the permit reviewers across the City may be prioritizing permit applications differently. Frequent permit applicants we spoke with also communicated this concern. For example, the Housing Development Consortium, an organization that advocates for affordable housing in King County, told us that some

City departments do not appear to prioritize affordable housing project permits. Because of how the City reviews and approves permit applications, the prioritization (or lack thereof) of just one City employee can impact the timeliness of when the permit is issued. Consistent prioritization across all City departments is needed for customers to experience the benefit of the prioritization.

Beyond the initial project prioritization, we found inconsistencies in how SDCI staff prioritize the permit applications assigned to them. In interviews, staff noted using different criteria to decide which projects to work on. For example, some reviewers prioritize permit applications for which they are the last reviewer before the permit can be issued. Other reviewers work on projects strictly in priority order.

"[SDCI Manager] is great because we can call them, and they can push things through."

- frequent permit applicant

Some reviewers told us that they will prioritize a project if a supervisor directs them to or when a customer proactively contacts them to ask about status. In acknowledgment of potential fairness concerns raised by such communications from permit applicants, some SDCI employees told us they would like to have more department guidance on how to prioritize their work. Some SDCI employees also expressed concern about certain groups and people in positions of power appearing to have unfair access to SDCI staff to advocate for their projects.

The City's permitting software was not designed to support efficient prioritization of permit applications. SDCI supervisors manually assign permit applications to reviewers, and these assignments show up in the reviewer's workflow screen in the City's permitting software system. The workflow screen lacks important fields that reviewers need to decide what to work on, such as priority number and how long a permit application has been on their dashboard. As a workaround, employees can run a business report showing more detailed information. However, this is a static, point-in-time report and was not designed to be a long-term solution.

"How would you know if you haven't done it before?"

- frequent permit applicant

SDCI does not share their priority criteria with the public. SDCI intake staff decide the priority level based on how projects appear. This means that it is up to the customer to include enough information in their permit application so that SDCI staff can decide what priority a project should receive. Because SDCI does not make their Plan Review Priorities Guideline public, not all customers have knowledge of the prioritization criteria. Thus, some customers may not get their project prioritized when it should be.

The City's current permit review process allows prioritization of permit applications in a way that favors experienced customers.

"The squeaky wheel gets the grease. If I am complaining to [SDCI Manager], I can get mine faster."

- frequent permit applicant

Frequent customers we spoke with said they were somewhat aware of SDCI's prioritization criteria, and some said they used that to their advantage, though others said they saw no value. Frequent customers also noted they will contact permit reviewers or SDCI management directly to bring attention to their permit application and get it processed faster. SDCI facilitates a monthly meeting with select members of the Master Builders Association of Snohomish and King Counties, giving their members direct access to City permitting staff to discuss and advocate for their projects and specific interests. The absence of transparent and consistently applied prioritization criteria creates accountability concerns and gives an advantage to applicants with more experience and resources.

Recommendation 4

The Seattle Department of Construction and Inspections (SDCI) should solidify and make more transparent how it prioritizes construction permit applications for review. This could include:

- **Creating a policy and providing training on how permit reviewers should prioritize projects assigned to them**
- **Improving the workflow screen in Accela to make the priority of projects clearer**
- **Reviewing and making updates to the Plan Review Priorities Guideline document (for example, considering the priority of medical or disability accommodations) and making it publicly available**
- **Creating a method to document when and why the prioritization process is circumvented**

SDCI should coordinate with other City departments as needed to implement this recommendation.

SDCI could do more to ensure a positive ethical culture

Some SDCI employees expressed concerns and confusion about the ethical culture surrounding the construction permitting process. We interviewed employees involved in reviewing permit applications to learn how they approach their work. About 30 percent of the SDCI employees we interviewed commented on the ethical environment of the department, with several themes emerging:

- The City being influenced to make permit process changes by and for big developers, in particular the Master Builders Association of King and Snohomish Counties, which some interviewed employees believed might not be in the best interest of all customers
- SDCI managers and directors with secondary employment in the construction or development industry and having this, in the opinion of some interviewed employees, possibly be a conflict of interest for their City employment

- Supervisors or managers directing staff to prioritize some projects over others, which led some interviewed staff to question the rationale for the change in priorities
- Employees having close relatives within the department, which led some interviewed employees to question whether those relationships helped those employees advance in their careers

As part of our audit, we did not investigate these concerns to the extent necessary to substantiate them. We met with the Director of the Ethics and Elections Commission, who told us that they had not received any complaints about the permitting process in the past three years.

"City employees should recognize that public service is a sacred trust and should strive to live up to the highest ethical standards."

Seattle Municipal Code Chapter 4.16 – Code of Ethics

The City's Code of Ethics sets the "minimum standard" for employees to follow. One of the purposes of the Code of Ethics is to strengthen public confidence in the integrity of City government. The Code of Ethics emphasizes that employees should do their work impartially, without conflict between their duties to the public and their personal interests. The Code provides general guidance applicable to all City employees and does not go into detail about all potential ethical scenarios that could arise. Thus, the Seattle Ethics and Elections Commission (SEEC) refers to the Code as the "minimum standard" and recommends consulting with them on specific situations.

The City can provide transparency to the public by disclosing the appearance of conflicts of interest. This allows City leaders and the public to weigh in on the appropriateness of a situation and avoid potentially unethical situations. The SEEC provides two forms to assist with such disclosure. Seattle Municipal Code 4.16.080 requires certain City employees to disclose their financial interests annually through the Financial Interest Statement process. The Code mentions several City positions by name and leaves it up to department heads to identify additional employees who should complete the form.

We asked the SEEC to verify which SDCI managers and directors in their permitting divisions completed a Financial Interest Statement form for 2022. SEEC reported to us that over half of the managers and one director had not completed the form. SDCI should examine who completes Financial Interest Statement forms to determine if there is a reason for this inconsistency.

The SEEC also has a form for employees to disclose the appearance of conflict or impaired judgment for non-financial matters. Department management review the form, determine what action to take, and send a copy to the SEEC. SDCI could consider using this form and process or adopting their own that is specific to their department.

"The oversight body and management reinforce the commitment to doing what is right, not just maintaining a minimum level of performance necessary."

- United States Government Accountability Office's Standards for Internal Control, standard 1.04

SDCI could improve internal guidance and training on the department's expectations related to ethics. We reviewed SDCI's Workplace Expectations for Employees document and found that it refers to the City's Code of Ethics but does not offer ethics guidance that is specific to SDCI employees and the kind of work they do. SDCI's Workplace Expectations for Supervisors document does not mention ethics. We also asked SDCI about the ethics training they provided to employees. SDCI told us that, before 2020, the SEEC provided general ethics training to SDCI employees, but training was paused during the COVID-19 pandemic. However, neither SDCI nor the SEEC were able to give us details, such as who attended the training, when it last occurred, and the specific content of the training.

Management has a responsibility to create, communicate, and model a positive ethical environment. A positive ethical environment contributes to a positive workplace culture, which in turn impacts all aspects of an organization. Best practices state that management should establish clear expectations on appropriate ethical behavior, model that behavior to staff, and hold employees accountable. Effective and periodic training that is scenario-based and specific to employees' work environment should also be regularly provided.

Recommendation 5

The Seattle Department of Construction and Inspections (SDCI) should evaluate its ethical culture and make any needed improvements. SDCI should consider the following:

- **Periodic evaluations of the workplace culture and ethical environment through anonymous employee surveys**
- **An internal ethics policy to address situations that are unique to SDCI's work environment**
- **Ongoing ethics training that is tailored to SDCI's work environment and potential ethical scenarios employees may encounter**
- **A clear process for employees to anonymously report ethical concerns**
- **Leadership's demonstrated commitment to strong ethical values through their directives, attitudes, and behavior (also known as "tone at the top")**
- **Reviewing and determining which employees should complete the City's Financial Interest Statement form based on their responsibilities**

STRENGTHEN CITYWIDE APPROACH

Section Summary

In this section, we discuss challenges related to having multiple departments involved in permit review and make recommendations for improving collaboration. We found that while the City has engaged in many permitting improvement efforts, not all the identified changes have been made. This is in part because the City lacks a way to manage and follow through on improvements, especially when they span departments. Additionally, there is not a unified Citywide approach to funding staff who review permits. This means that some departments occasionally experience staffing challenges as permit demand fluctuates. Finally, we found that the City does not have an effective strategy for how to support technology essential to the permitting process.

The City has not followed through on all construction permitting improvement efforts, diminishing their impact

The City has engaged in multiple efforts to improve the construction permitting process over the years. Some of these efforts resulted in completed reports with recommendations. We reviewed seven consultant reports, published between 2012 and 2022, that the City paid for to recommend improvements to various parts of the construction permitting process. We also identified six active internal City-led projects and workgroups, including this audit, that seek to improve permitting.

The City has not implemented many of the recommendations from past consultant reports. This means that the City is not realizing the full benefit from past work and may be missing opportunities to make meaningful improvements for permit applicants. Below are some examples of outstanding recommendations:

- A 2020 consultant report on the usability of the Seattle Services Portal had several recommendations to improve system use. However, the City deprioritized those improvement efforts, citing lack of resources.
- A 2015 consultant report on SDCI's quality management system recommended they conduct audits on the permit corrections that reviewers issue to ensure quality and adherence to department standards; however, these correction letter audits are not consistently performed.
- A 2013 consultant report on Seattle City Light's permit review functions recommended four full-time employees to do plan review. However, they have just one.

The City lacks a system to manage and follow through on construction permitting improvement efforts. Because permit review involves many City departments, recommendations for improvement should be compiled and evaluated at the Citywide level. We found that this is not occurring. In addition, there is not an owner who is responsible for and empowered to implement the recommendations when they fall across department lines. This means there is no accountability system to ensure recommendations are implemented and improvements are made.

Customers frequently note City coordination as a major permitting issue. Many construction permits require multiple City departments to review and approve certain aspects of the application. For example, Seattle City Light is involved in reviewing requests for new electrical service, and the Seattle Fire Department reviews a building's fire alarm system. We interviewed and surveyed permit applicants about their experience with City permitting; a common complaint was the siloed nature of the process and inconsistencies across City departments. Customers told us that departments follow different processes and do not appear to communicate with one another. The design of the City's permit review process puts responsibility on SDCI as the process owner, without full control of the other City departments involved. This structure has, in part, created a disjointed and frustrating experience for customers. One active improvement effort, the Mayor's Housing Subcabinet Permitting Workgroup, has representatives from all City departments involved in permitting and can be a great opportunity to resolve some of these coordination issues.

Recommendation 6

The Mayor's Office should lead a coordinated effort to document all recommendations related to the construction permitting process from consultant reports and internal improvement efforts. City departments should then evaluate each recommendation to determine whether they intend to implement it and why. The City should prioritize, assign an owner, and estimate a due date for each recommendation that is selected for implementation. Recommendations should be tracked in a central, publicly accessible location such as a dashboard to promote accountability.

Different funding mechanisms hinder the City's ability to respond to changes in permit demand

SDCI owns the permitting process, but other City departments are critical to the timeliness of permit reviews. Different departments have different staffing models and varying resource levels assigned to construction permit review. For example, Seattle City Light has one reviewer dedicated to permit review. Permit applicants have communicated concern with the timeliness of reviews completed by other departments. As part of an ongoing internal improvement effort coordinated by the Mayor's Office, the City is building a data tool that may make it easier to track which departments are taking longer to complete their reviews.

The City's permitting process operates at the department level, meaning there is not a unified Citywide approach to funding staff. This leaves each department to assign resources and make process changes in a vacuum that does not center the overall customer experience. SDCI uses permit fees to keep a certain number of core permit reviewers on staff to pivot quickly to changes in permit demand. They also have contingent budget authority to add temporary staff when demand is high.

Other City departments, such as the Seattle Fire Department, use the City's general fund and are limited in their response to fluctuations in demand. Fire Department review staff dwindled from eight to four employees after budget cuts in 2020. SDCI management said the Fire Department was a recent bottleneck holding up the permit review process. State law limits the ways the City can spend the revenue it earns from fees. The Fire Department is exploring how it can set aside extra funds to cope with budget reductions, similar to SDCI.

Recommendation 7

The City Budget Office, in collaboration with other City departments, should evaluate the governance and funding structures of departments that review construction permit applications and determine if changes can be made to better position the City to quickly respond to fluctuations in permit demand while meeting customer expectations.

The City needs a better strategy to address IT needs in construction permitting

The City's permitting portal has experienced issues since its launch in 2018, weighing down the process for customers and staff. SDCI implemented the portal, also called Accela, in 2018. Now, customers must submit all permit applications online using this system. SDCI issued an apology to the public shortly after implementing Accela, acknowledging it was a "rocky rollout."

Accela has fallen short of stability targets. Accela was up and running 91.3 percent of August 2022 and 90.4 percent of December 2022. The internal goal is 99.5 percent. Accela's stability appears to

have improved in 2023—Accela was online 99.1 percent of the first five months of the year. Some City staff attributed performance struggles to internal servers, an issue that dates to Accela's launch. The City plans to move to a cloud-based version of Accela. City staff said that the move would take about a year. A consultant report notes that making the switch "doesn't represent a cure for all that ails" the City's permitting portal, but it would likely make it more reliable.

The City does not have an effective strategy for how to support technology essential to the permitting process. The City has made efforts to improve the permitting portal. However, during our audit, City staff and applicants reported performance issues with Accela, such as slowness or not saving information. They said this can delay work or require submitting information multiple times. In our survey of applicants, 42 percent (16 of 38) said they were satisfied with their experience using the City's website to apply for a permit, while 39 percent were dissatisfied.

Staff in SDCI and the Seattle Information Technology Department (ITD) work together to make improvements to Accela. SDCI permitting staff and management cited difficulty getting changes made to make their work easier, including requests dating back to its launch in 2018.

The City also appears to lack a plan to ensure its recently implemented electronic tool to review plans, called Bluebeam, remains viable long term. Most staff that we interviewed had a positive impression of using this tool, as did applicants we surveyed who reported using it. However, the tool recently experienced what staff called a "very catastrophic" error that made it harder for reviewers to do their work. SDCI's ability to maintain Bluebeam's stability is made more challenging because they have just one employee supporting Bluebeam, and they are serving in the role temporarily.

Acknowledging these issues, SDCI leadership identified the need for an IT governance strategy in their most recent strategic plan.

Other departments involved in the permitting process are not fully integrated into Accela, which may confuse customers. For example, customers must manually request a water meter, rather than this happening automatically as part of their permit application. Seattle Public Utilities staff said there have been times that homes were sold without having running water because there's no way for the department to flag this issue in the permitting process.

When first implemented at the City, only SDCI used Accela. City staff said there was not a focus at the time on how to coordinate using Accela with other departments. This continues to impact the permitting process. Seattle Fire Department staff said Accela is not

customized for its needs—instead, they have a separate supplemental database used for inspections, requiring staff to enter information twice.

The Seattle IT Department (ITD) has not always been able to get funding for positions to support the permitting portal. Other City departments now also use Accela for other types of permits, such as taxis and short-term rentals. ITD staff that support Accela are paid through the City's general fund and permitting fees. All departments who use the portal chip in funding—however, this can be challenging for general fund departments. ITD staff who manage Accela say this is not a good funding model and that they need far more staff than what the City approved in recent years. SDCI leadership said it's hard to get support for IT resources, including to keep current systems stable.

Recommendation 8

The Mayor's Office should develop and implement a strategy, including the required resources, for providing ongoing support for the Seattle Services Portal (Accela) and other software used in the construction permitting process. The Mayor's Office should collaborate with the Seattle Information Technology Department and other departments involved in construction permitting.

Recommendation 9

The Seattle Department of Construction and Inspections (SDCI) should evaluate which departments are using Accela for construction permit review and determine how to improve their integration and use of the portal. SDCI should coordinate with other City departments involved in the construction permitting process.

STANDARDIZE CONSTRUCTION PERMIT REVIEW COMMENTS

Section Summary

In this section, we focus on the corrections process and how to improve consistency among permit reviewers. We found there is not enough employee guidance that is specific to corrections, such as which application issues warranted an official correction. Further, there is no point of intervention for when employees should contact an applicant rather than continuing to issue corrections. We also found that the City does not have a policy to routinely evaluate the quality and necessity of permit application corrections.

SDCI lacks a consistent process for handling construction permit corrections

Permit reviewers are inconsistent in how they approach the corrections process. During plan review, permit reviewers issue corrections for customers to fix issues with their application. We noted inconsistencies in how staff decide:

- Which permit application to work on
- What feedback constituted an official correction
- How to notify a customer when a correction is needed
- What was an acceptable correction response from the customer

SDCI does not provide enough employee guidance that is specific to corrections. This includes what warrants an official correction versus an informal call or email.

> *"Nobody will take phone calls."*
>
> *- frequent permit applicant*

In our survey, some respondents reported a positive experience working with staff, but others said reviewers were inconsistent in the amount of time they took to complete reviews and what they required of an application. Also, respondents requested to be able to address simple, minor corrections without going through a formal review cycle. One respondent said that in the issue they ran into, "a simple phone call could have cleared up the process."

> *"Reviewers regularly ignore requests for status or info."*
>
> *- frequent permit applicant*

SDCI's review process lacks a stated point of intervention for when to contact an applicant rather than continuing to issue corrections. SDCI management told us that they informally encourage reviewers to contact applicants after multiple correction rounds. However, SDCI staff and leadership acknowledged that some reviewers would rather issue a correction than call an applicant. This slows down the process for an applicant. Also, applicants do not always understand reviewers' written comments. In our survey, 34 percent of respondents said feedback from reviewers was not clear, while 32 percent said it was (34 percent were neutral).

Some review teams go through more rounds of review than others. For example, at the time of our audit, SDCI's Geotechnical team took an average of three rounds on lower-complexity permits, while the Energy/Mechanical team averaged one-and-a-half rounds. While SDCI management said some teams get more complicated projects, having a point of intervention may still reduce their number of review rounds.

Recommendation 10

The Seattle Department of Construction and Inspections (SDCI) should develop a department policy for how construction permit corrections should be handled, including:

- **What rises to the level of needing an official correction**
- **What is required back from the applicant to resolve the correction, including in what format**
- **At what point to contact the applicant to discuss the issues, such as after a certain number of correction cycles**
- **How this policy will be enforced**

SDCI should coordinate with other City departments involved in the construction permitting process in developing and implementing this policy. SDCI should also put relevant information about the policy on their website.

The City does not have a policy to routinely evaluate the quality and necessity of permit application corrections

SDCI has evaluation criteria for permit application corrections. In response to quality concerns raised in a 2015 consultant report, SDCI created quality standards for corrections on construction permit applications. Corrections must be:

- Clear and understandable
- Based in the building, energy, and land use codes, and cite code section
- Note location in plan set
- Directive (identifies action needed)
- Necessary

This consultant report recommended that SDCI perform periodic correction letter audits so that supervisors could evaluate corrections against these standards.

SDCI does not have a policy to evaluate permit correction quality. SDCI attempted to perform regular correction letter audits but determined it took too much time for the value provided. In our interviews with SDCI staff, supervisors told us they found value in the audits and completed some when time allowed. Supervisors described

inconsistent levels of thoroughness and frequency in the audits they did perform.

> *"More consistency with permit reviewers would improve the process so there is more predictability."*
>
> *- frequent permit applicant*

The variance in permit corrections among City staff warrants ongoing evaluation. We interviewed SDCI employees and found that they consistently described their general approach to permit application corrections, or in other words, their plan review philosophy. Employees described their review as focusing on the big, important issues that would impact building performance and a need to balance review thoroughness with timeliness. Our review of SDCI training confirmed this plan review philosophy at the department level.

However, at the more granular correction item level, SDCI is not consistently meeting their quality standards. For example, a correction letter audit SDCI performed in 2020 found that only 29 percent of corrections were "necessary" for the project type reviewed. In addition, some permit customers we spoke with complained about the quality of permit corrections and about new corrections being added during subsequent reviews. If correction comments do not meet SDCI's quality standards, the City could be missing code requirements, confusing customers, or delaying the permit from being issued.

Recommendation 11

The Seattle Department of Construction and Inspections (SDCI) should develop a process to monitor and evaluate permit application corrections. This process should be sustainable given current resource levels and provide reasonable assurance that permit corrections are meeting SDCI's standards of being necessary, understandable, code-based, directive, and specific. SDCI should track this information so that correction quality can be evaluated over time. To ensure the consistency of permit corrections, SDCI should involve and coordinate with other City departments that issue permits.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Seattle City Councilmember Dan Strauss requested that we examine the City of Seattle's (City) process for reviewing construction permits. Our objectives were to answer the following questions:

- Are there opportunities to improve the clarity, consistency, and timeliness of the permitting process?
- Is the City using the full potential of its permitting information technology tools?
- Is the City's permitting process contributing to its Race and Social Justice Initiative (RSJI) goals?

Scope

The scope for this audit included construction permit applications under review in 2021 and 2022.

Methodology

To accomplish the audit's objectives, we performed the following:

- Reviewed internal controls related to the construction permitting process, such as relevant SDCI policies, procedures, and training documents
- Interviewed officials from the Seattle Department of Construction and Inspections (SDCI), including permit reviewers from the Engineering Services Division and Land Use Division; supervisors and managers of permit review teams; and employees from the Organizational Strategy and Support Division
- Observed City permit review staff performing construction permit reviews
- Observed an SDCI training session for new permit reviewers
- Interviewed officials from City departments that are involved in the permitting process, including: Seattle City Light, Seattle Public Utilities, the Seattle Fire Department, and Seattle Department of Transportation
- Interviewed officials from the Seattle Information Technology Department who are involved in supporting the City's permitting information technology tools
- Interviewed officials from the Mayor's Office and the Seattle Office for Civil Rights

- Analyzed SDCI's construction permit data for City review timeliness in 2021 and 2022 and compared to state timelines and internal targets
- Surveyed customers whose permit applications had gone through five correction rounds, with 38 of 117 contacted responding
- Interviewed customers who have submitted a high number of permit applications with the City to learn about their experiences
- Attended a monthly meeting between City officials and the Master Builders Association of King and Snohomish Counties
- Researched relevant construction permitting best practices

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX A

Department Response

Seattle Department of Construction & Inspections

August 30, 2023

David G. Jones, CGFM, CIA, CISA
Seattle City Auditor
Office of City Auditor

David Jones, and Office of City Auditor staff,

Thank you for sending the final draft audit report on construction permitting: "City's Construction Permitting Needs More Customer Focus and Consistency." SDCI appreciates having been included as an active participant in this lengthy and thorough process. In general, SDCI concurs with all of the findings/recommendations in the final draft report. We appreciate the inclusion of our consolidated comments from the SDCI Executive Team and we also appreciate the need to have further discussion regarding a number of the recommendations, particularly for those recommendations that have already had significant investments/progress made this calendar year (2023), together with those that clearly extend beyond SDCI's area of authority and may have broader impacts to other departments across the city. There are many nuances to the complex system of permitting and we are committed to the core philosophy of Continuous Improvement in line with the audit's general theme of consistency and adding value to all our customers (including permit applicants *and others* who interact with the city).

Thank you for allowing us to participate in this audit process. We look forward to continuing to partner in the final outcomes and the ongoing work to address these findings/recommendations.

Please let us know if there is anything further needed from SDCI at this time.

Sincerely,

(On Behalf of Nathan Torgelson, SDCI Department Director and the SDCI Executive Team)

C. Andrew ("Andy") Higgins, MBA, CBO/MCP (he/him/his)
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Seattle Department of Construction and Inspections
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APPENDIX B

List of Recommendations and Department Response

Recommendation 1:

The Seattle Department of Construction and Inspections (SDCI) should develop metrics by construction permit type for total review time and a tracking process to support meeting those metrics. The metrics and SDCI's progress on meeting those metrics, along with the methodology and notices of any data limitations, should be displayed on SDCI's website and updated regularly. The data should meet the needs and expectations of customers and include other City departments' review times. SDCI should also consider whether to publish its review queue on its website.

Department Concurrence: SDCI generally concurs with this finding.

Estimated Date of Completion (Qtr./Yr.): Pilot completion by end of Q4 2024 and ongoing improvements.

Department Response: SDCI is working on a list of known enhancements and improvements to its permit tracking system. Items already on this list are inclusive of tracking performance against correction cycles and total throughput time, including the goal of reducing average correction cycles through utilization of enhanced collaboration tools such as Bluebeam Revu and future SaaS solutions. Improvements are already underway on these metrics and our commitment is that these improvements will continue, including a focused realignment effort keying in on an improved end-to-end customer service experience throughout the entire permitting process.

Recommendation 2:

The Seattle Department of Construction and Inspections (SDCI) should address potential permitting barriers and equity concerns by incorporating the City's Race and Social Justice Initiative (RSJI) values into the permitting process. This should involve completing a Racial Equity Toolkit (RET) for the entire permitting process or several RETs for specific parts of the process. SDCI should consult with the Seattle Office for Civil Rights for RET guidance and support and with other City departments that are involved in permitting or have a stakeholder interest. In the RET, SDCI should evaluate the accessibility of their current process and tools, including considering the needs of customers who lack computer skills, people with disabilities, and people with limited English proficiency, among others. The RET should also include a stakeholder analysis to determine who is impacted by the permitting process and from whom SDCI should get regular feedback. The City should implement the recommendations that result from this effort.

Department Concurrence: SDCI generally concurs with this finding.

Estimated Date of Completion (Qtr./Yr.): Ongoing/TBD

Department Response: Historically, SDCI has run several Racial Equity Toolkits (RETs) for various portions of the permitting process and is committed to eliminating potential permitting barriers and equity concerns. These efforts will continue and SDCI will work with the Seattle Office for Civil Rights and other City departments to assess the racial equity impacts of specific parts of the process identified by our customer engagement efforts in the future. SDCI is already actively working on updating and publicly publishing our Plan Review Priority Guidelines on our website in an effort to increase transparency.

Recommendation 3:

The Seattle Department of Construction and Inspections (SDCI) should develop a strategic customer engagement program for their construction permitting process, which could include:

- Establishing customer service and satisfaction baseline data.
- Defining performance measures that relate to SDCI's strategic goals.

- A process to routinely monitor performance measures.
- Defined roles for SDCI employees who are responsible for implementing process improvements.

Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): Pilot completion by end of Q4 2024 and ongoing improvements.
Department Response: SDCI is pursuing a potential mechanism for continuously gathering customer experience feedback across the entire process in order to be able to use that information in its efforts towards continuous improvement. SDCI is already collecting customer satisfaction scores in our Virtual Applicant Services Center environment, and we hope to expand that to our overall permitting process going forward. In addition, SDCI is considering a customer experience team that will service permit applicants from pre-intake to final inspection, to ensure a seamless customer service experience.

Recommendation 4:

The Seattle Department of Construction and Inspections (SDCI) should solidify and make more transparent how it prioritizes construction permit applications for review. This could include:

- Creating a policy and providing training on how permit reviewers should prioritize projects assigned to them
- Improving the workflow screen in Accela to make the priority of projects clearer
- Reviewing and making updates to the Plan Review Priorities Guideline document (for example, considering the priority of medical or disability accommodations) and making it publicly available
- Creating a method to document when and why the prioritization process is circumvented

SDCI should coordinate with other City departments as needed to implement this recommendation.
Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): Q4 2023 with ongoing training/transparency efforts to continue.
Department Response: SDCI currently has policies and procedures related to application prioritization, though historically these documents have been internal to the department and SDCI is committed to making these documents public facing and more transparent. SDCI has edited the Plan Review Priority Guidelines to give priority to projects relating to medical or disability accommodations, as suggested in the Audit and has placed this document on our publicly facing website, as well as on our internal website. SDCI is also committed to improving the tools supervisors and staff have to be more consistent in prioritizing work across the department and city.

Recommendation 5:

The Seattle Department of Construction and Inspections (SDCI) should evaluate its ethical culture and make any needed improvements. SDCI should consider the following:

- Periodic evaluations of the workplace culture and ethical environment through anonymous employee surveys
- An internal ethics policy to address situations that are unique to SDCI's work environment
- Ongoing ethics training that is tailored to SDCI's work environment and potential ethical scenarios employees may encounter
- A clear process for employees to anonymously report ethical concerns
- Leadership's demonstrated commitment to strong ethical values through their directives, attitudes, and behavior (also known as "tone at the top")
- Reviewing and determining which employees should complete the City's Financial Interest Statement form based on their responsibilities

Department Concurrence: SDCI generally concurs with this finding.

Estimated Date of Completion (Qtr./Yr.): Q4 2024 and ongoing.
Department Response: SDCI is pursuing a potential mechanism for continuously gathering employee experience feedback across the entire department to be able to use that information in its efforts towards continuous improvement. This mechanism may include a way for employees to anonymously report ethical concerns. SDCI hopes to partner with other city departments (including Ethics & Elections and Seattle IT) to be able to create a more standardized ethics training program, like the annual privacy and security training that exists for all city staff. It is important to point out that there were no specific findings of any unethical issues or situations as part of this audit report. SDCI will work with Ethics and Elections to develop more guidelines surrounding SDCI staff with secondary employment in the construction and development industry. The Department nor the Office of Ethics and Elections have a mechanism to track who is filling out the Financial Interest Statement, but SDCI will also send out reminders to staff more frequently to complete the form. This finding is a good reminder that the department is responsible for ongoing/routine foundational training regarding its strong ethical values and the department is committed to more consistency and rigor around providing ongoing training and gathering feedback.

Recommendation 6:

The Mayor's Office should lead a coordinated effort to document all recommendations related to the construction permitting process from consultant reports and internal improvement efforts. City departments should then evaluate each recommendation to determine whether they intend to implement it and why. The City should prioritize, assign an owner, and estimate a due date for each recommendation that is selected for implementation. Recommendations should be tracked in a central, publicly accessible location such as a dashboard to promote accountability.
Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): TBD
Department Response: SDCI will need to collaborate with the Mayor's Office regarding this recommendation and will continue to share all the historical documentation and recommendations previously related to the construction permitting process from years of consultant reports and internal improvement efforts.

Recommendation 7:

The City Budget Office, in collaboration with other City departments, should evaluate the governance and funding structures of departments that review construction permit applications and determine if changes can be made to better position the City to quickly respond to fluctuations in permit demand while meeting customer expectations.
Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): TBD
Department Response: SDCI will need to collaborate with the City Budget Office and other City departments regarding this recommendation and will continue to share all the historical documentation and recommendations related to enterprise funding, operational reserves and set asides, contingent budget authority, demand/capacity planning, etc. in order to assist other departments involved in the permitting process in their efforts to be more nimble/responsive.

Recommendation 8:

The Mayor's Office should develop and implement a strategy, including the required resources, for providing ongoing support for the Seattle Services Portal (Accela) and other software used in the construction

permitting process. The Mayor's Office should collaborate with the Seattle Information Technology Department and other departments involved in construction permitting.
Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): TBD
Department Response: SDCI will need to collaborate with the Mayor's Office, Seattle IT, and other City departments regarding this recommendation. Work is already underway to realign the governance structure for the Enterprise, Permitting, Inspection, & Compliance (EPIC) Program as well as to shift to Software as a Service (SaaS) and to begin using Managed Accela Services (MAS) to increase internal IT capacity. Creating feedback mechanisms for continuously gathering customer experience feedback across the entire platform to be able to use that information in our collective efforts towards continuous improvement will be a critical component of continuing to address the impacts of future changes to our technology.

Recommendation 9:

The Seattle Department of Construction and Inspections (SDCI) should evaluate which departments are using Accela for construction permit review and determine how to improve their integration and use of the portal. SDCI should coordinate with other City departments involved in the construction permitting process.
Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): TBD
Department Response: SDCI will need to collaborate with the Mayor's Office, Seattle IT, and other City departments regarding this recommendation. Work is already underway to incorporate a number of processes and departments into Accela that have not yet fully implemented the tool. The timing of these implementations is related to the backlog of known improvements/enhancements that have been limited by IT capacity issues. SDCI and other City departments are also currently working with the Mayor's Office of Innovation and Performance to evaluate the entire permitting process and will collaborate on areas of additional system integration, process improvements, and workflow enhancements identified through that effort.

Recommendation 10:

The Seattle Department of Construction and Inspections (SDCI) should develop a department policy for how construction permit corrections should be handled, including:

- What rises to the level of needing an official correction
- What is required back from the applicant to resolve the correction, including in what format
- At what point to contact the applicant to discuss the issues, such as after a certain number of correction cycles
- How this policy will be enforced

SDCI should coordinate with other City departments involved in the construction permitting process in developing and implementing this policy. SDCI should also put relevant information about the policy on their website.
Department Concurrence: SDCI generally concurs with this finding.
Estimated Date of Completion (Qtr./Yr.): Pilot completion by end of Q4 2024 and ongoing improvements.
Department Response: SDCI acknowledges that these policies do exist within the department, but that they are inconsistently applied across all teams/divisions, as well as across all city departments involved in reviewing construction permit applications. SDCI is committed to working on consolidating these policies into a more comprehensive and consistent department-wide (and potentially city-wide) policy. (Note: SDCI will need to collaborate with the Mayor's Office and other City departments involved in order to be able to encourage implementation of something citywide.)

Recommendation 11:

The Seattle Department of Construction and Inspections (SDCI) should develop a process to monitor and evaluate permit application corrections. This process should be sustainable given current resource levels and provide reasonable assurance that permit corrections are meeting SDCI's standards of being necessary, understandable, code-based, directive, and specific. SDCI should track this information so that correction quality can be evaluated over time. To ensure the consistency of permit corrections, SDCI should involve and coordinate with other City departments that issue permits.

Department Concurrence: SDCI generally concurs with this finding.

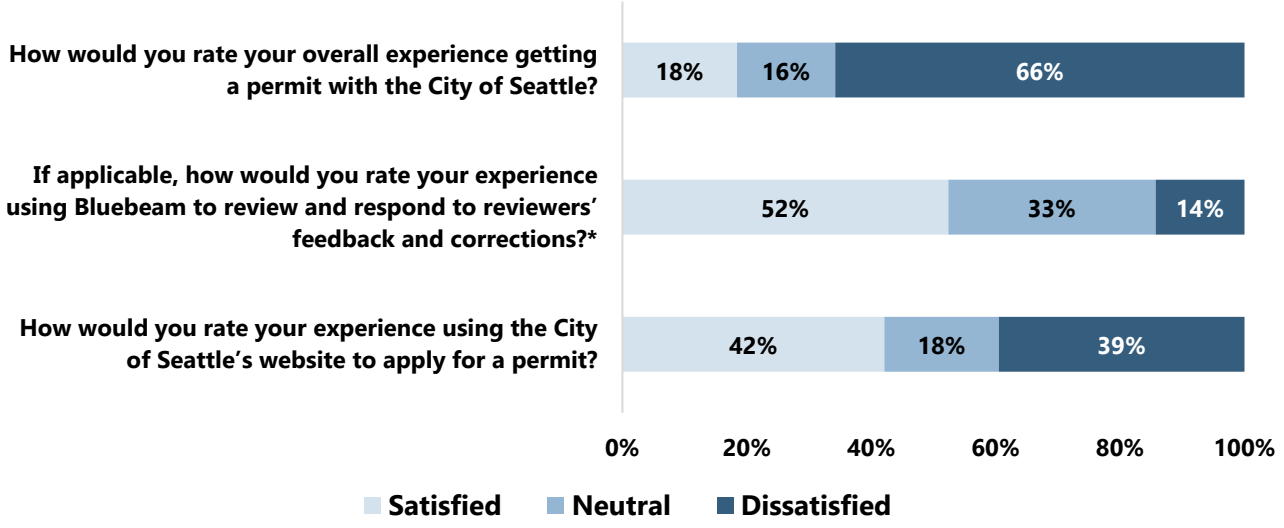
Estimated Date of Completion (Qtr./Yr.): Pilot completion by end of Q4 2024 and ongoing improvements.

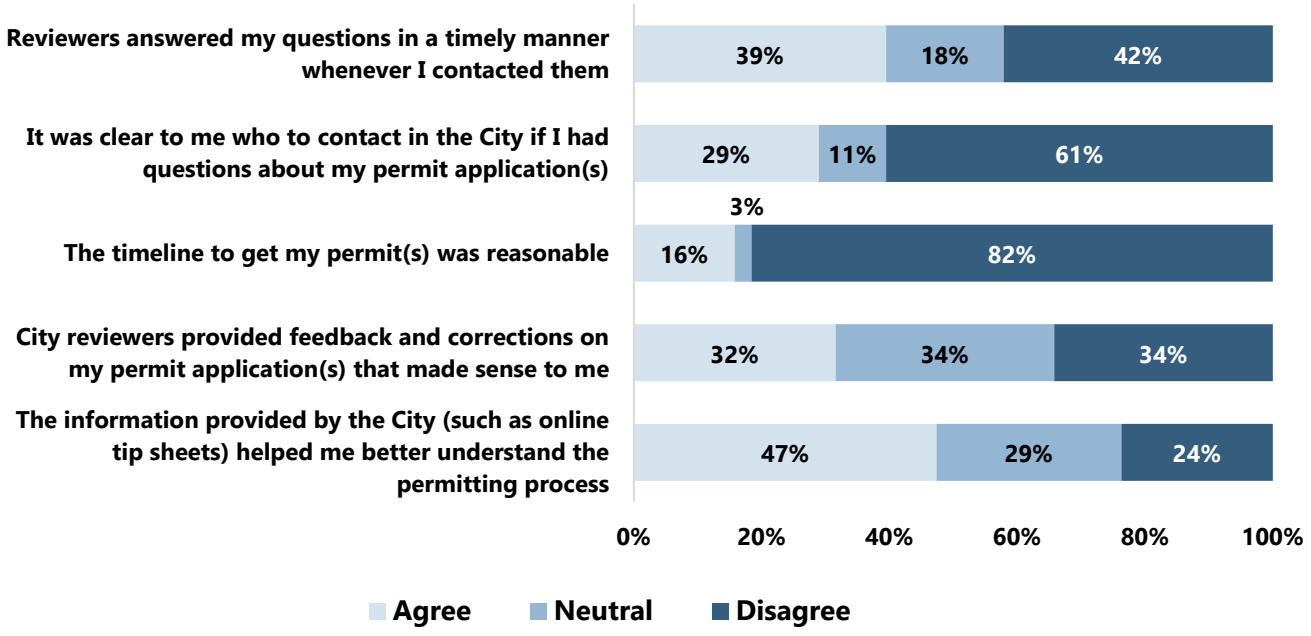
Department Response: SDCI acknowledges that correction monitoring processes do exist within the department, but that they are inconsistently applied across all teams/divisions, as well as across all city departments involved in reviewing construction permit applications. SDCI is committed to working on consolidating these practices into a more comprehensive and consistent department-wide (and potentially city-wide) process. Implementation of a mechanism for continuously gathering customer experience feedback and employee experience feedback across the entire process will be critical in maximizing our efforts to measure whether permit corrections are meeting SDCI's standards of being necessary, understandable, code-based, directive, and specific. (Note: SDCI will need to collaborate with the Mayor's Office and other City departments involved in order to be able to encourage implementation of something citywide.)

APPENDIX C

Results of Audit's Construction Permit Applicant Survey

We conducted a survey of applicants with a high number of review rounds to gain an understanding of their experiences and impressions of the construction permitting process. We sent our survey in May 2023 to 117 applicants with at least five rounds of review. Of those, 38 responded. The graphs below contain summary data for questions where we asked applicants to rate their experiences.





*This figure is among the 21 of 38 (55 percent) survey respondents who reported using Bluebeam.

APPENDIX D

Seattle Office of City Auditor Mission, Background, and Quality Assurance

Our Mission:
To help the City of Seattle achieve honest, efficient management and full accountability throughout City government. We serve the public interest by providing the City Council, Mayor and City department heads with accurate information, unbiased analysis, and objective recommendations on how best to use public resources in support of the well-being of Seattle residents.

Background:
Seattle voters established our office by a 1991 amendment to the City Charter. The office is an independent department within the legislative branch of City government. The City Auditor reports to the City Council and has a four-year term to ensure their independence in deciding what work the office should perform and reporting the results of this work. The Office of City Auditor conducts performance audits and non-audit projects covering City of Seattle programs, departments, grants, and contracts. The City Auditor's goal is to ensure that the City of Seattle is run as effectively, efficiently, and equitably as possible in compliance with applicable laws and regulations.

How We Ensure Quality:
The office's work is performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. These standards provide guidelines for audit planning, fieldwork, quality control systems, staff training, and reporting of results. In addition, the standards require that external auditors periodically review our office's policies, procedures, and activities to ensure that we adhere to these professional standards.

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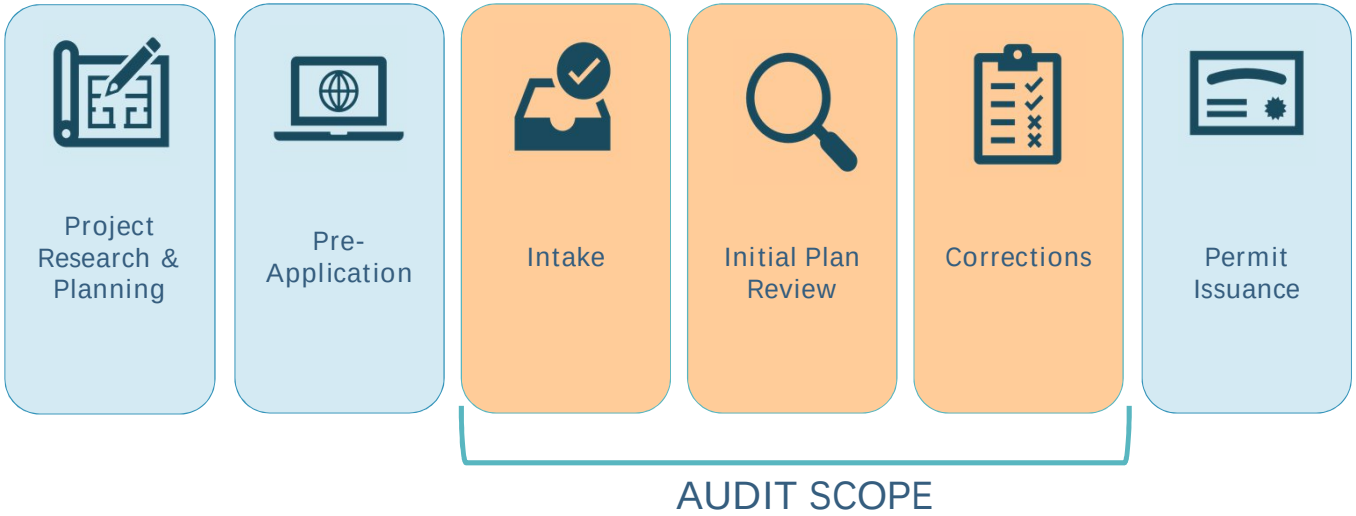
City's Construction Permitting Needs More Customer Focus and Consistency

PRESENTATION TO THE SEATTLE CITY COUNCIL LAND USE COMMITTEE

OCTOBER 20, 2023

What we did

Construction permitting process



Reinforce a customer focus

FINDING

Seattle Department of Construction and Inspections should reevaluate its tracking metrics and reporting methods to reduce review times.

The City lacks a process to routinely collect customer feedback.

RECOMMENDATION

Track by total review time

Complete Racial Equity Toolkit

Engage customers strategically

Promote transparency and fairness

FINDING	RECOMMENDATION
The City is inconsistent and opaque in how it prioritizes permit applications.	Review and formalize prioritization process
SDCI could do more to ensure a positive ethical culture.	Evaluate SDCI ethical culture

Strengthen a Citywide approach

FINDING

The City has engaged in permitting improvement efforts, but not all identified changes have been made.

There is not a unified approach to funding staff nor an effective strategy for supporting permitting software.

RECOMMENDATION

Evaluate and prioritize past recommendations

Evaluate governance and funding structures

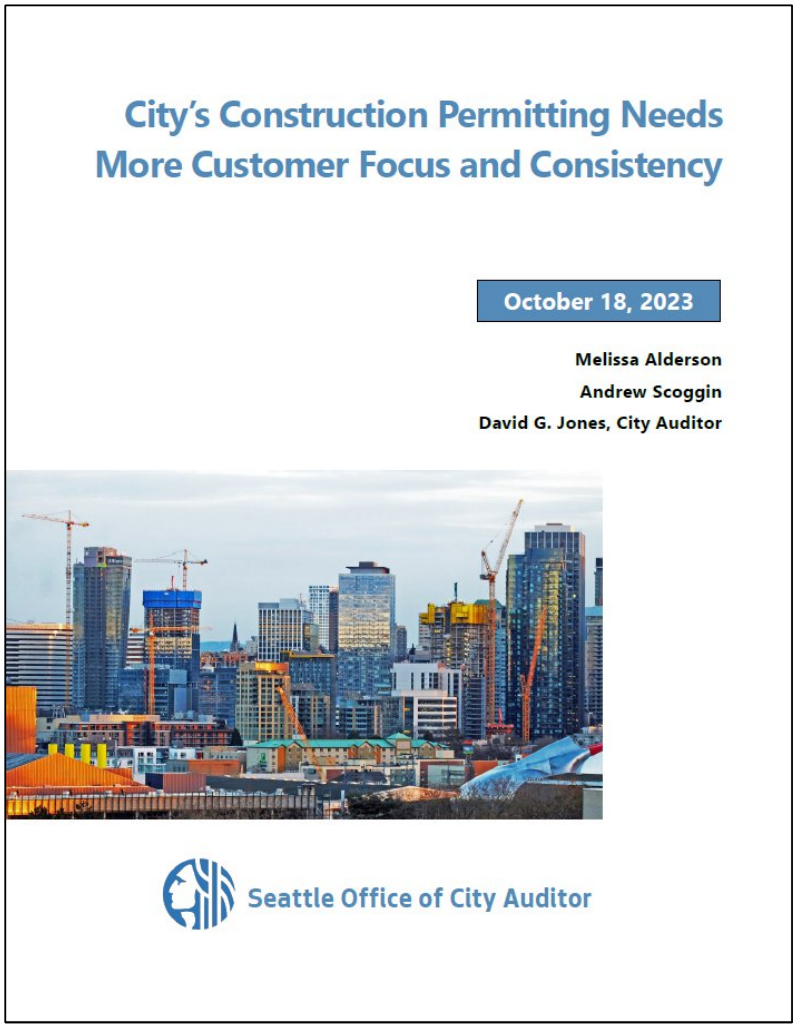
Create a strategy to support software and better integrate other departments

Standardize review comments

FINDING	RECOMMENDATION
SDCI lacks a consistent process for handling construction permit corrections.	Create a policy for issuing permit corrections
The City does not have a policy to routinely evaluate the quality and necessity of permit application corrections.	★★☆ Consistently evaluate permit corrections

Dig into our report

seattle.gov/cityauditor/reports



City's Construction Permitting Needs More Customer Focus and Consistency

October 18, 2023

Melissa Alderson
Andrew Scoggin
David G. Jones, City Auditor

Seattle Office of City Auditor