

September 16, 2022

## MEMORANDUM

**To:** Land Use Committee  
**From:** Lish Whitson, Analyst  
**Subject:** Clerk File 314447 – Hugh Schaeffer, SHW Contract Rezone, 7012 Roosevelt Way NE

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On September 22, the Land Use Committee (Committee) will have a briefing and may make a recommendation to the City Council on [Clerk File \(CF\) 314447](#), which is an application by Hugh Schaeffer, SHW for a contract rezone of a portion of the lot at 1007 NE 71<sup>st</sup> Street from Lowrise 1 (M1) to Neighborhood Commercial 2-55 (M2) (NC2-55 (M2)) with the Roosevelt Station Area Overlay (RO). The rezone would facilitate development of a 91-unit apartment building at 1007 NE 71<sup>st</sup> Street and the adjacent property, 7012 Roosevelt Way NE.<sup>1</sup> The Committee received a briefing on the rezone at its September 14 meeting.

This memorandum: (1) describes the contents of Council decision documents, which would grant the rezone application, including (a) draft Council Findings, Conclusion and Decision regarding the rezone and (b) a 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 (2) describes next steps.

### Type of Action

A Council decision on the rezone application is quasi-judicial.<sup>2</sup> 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.<sup>3</sup>

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 Hearing Examiner's 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.

Key documents from the Hearing Examiner's record have been added to the Clerk File linked above. Members of the Committee have been e-mailed a link to the full record, which is available electronically.

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<sup>1</sup> See the [Central Staff memo](#) from the September 14 Committee meeting for more information about the proposed development and Hearing Examiner recommendations.

<sup>2</sup> [Seattle Municipal Code \(SMC\) Section 23.76.036](#).

<sup>3</sup> Adopted by [Resolution 31602](#) (2015).

## **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 314447 - Findings, Conclusions and Decision

Central Staff has drafted a proposed Council Findings, Conclusions and Decision (see Attachment 1) which:

- Adopts the Hearing Examiner's findings and conclusions;
- Updates a reference to nearby zones from "single-family" to "neighborhood residential";
- Clarifies a conclusion regarding the future zoning of the property to explicitly include the Roosevelt Station Area Overlay district; and
- Adopts the conditions recommended by the Hearing Examiner.

### Draft Bill

Attachment 2 is a draft bill that would amend the Official Land Use Map to rezone the property and approve and accept the executed PUDA.

If the Committee wishes to recommend granting the rezone with conditions to the City Council, it should vote to add the Findings, Conclusions, and Decision to CF 314447. Then, the Committee should (1) direct Central Staff to take the necessary steps to place the draft bill on the introduction and referral calendar and (2) request that the applicant execute the PUDA as drafted.

## **Next Steps**

The rezone application will be considered by the Committee on September 22 for a potential recommendation to City Council. Depending on Committee action, a City Council vote would occur no earlier than October 11 and must occur no later than November 1.

## **Attachments:**

1. Proposed Findings, Conclusions and Decision
2. Draft Council Bill including proposed PUDA

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

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

In the matter of the Petition:	)	Clerk File 314447
Application of Hugh Schaeffer, SHW	)	FINDINGS, CONCLUSIONS,
for a contract rezone of a site located	)	AND DECISION
at 7012 Roosevelt Way NE from	)	
Lowrise 1 with an M1 Mandatory	)	
Housing Affordability (MHA) suffix	)	
(LR1 (M1)) to Neighborhood	)	
Commercial 2-55 with an M2 MHA	)	
suffix (MR (M2)) and the Roosevelt	)	
Station Area Overlay (Project No.	)	
3034865-LU; Type IV).	)	

Introduction

This matter involves a petition by Hugh Schaeffer, SHW (“Applicant”) for a contract rezone from Lowrise 1 multifamily residential with an M1 mandatory housing affordability suffix (LR1 (M1)) to Neighborhood Commercial 2-55 with an M2 mandatory housing affordability suffix (NC2-55 (M2)) and the Roosevelt Station Area Overlay of the east 30 feet of property located at 1007 NE 71<sup>st</sup> Street (“Property”). The remainder of the parcel at 1007 NE 71<sup>st</sup> Street is zoned Neighborhood Commercial 2-55 with an M mandatory housing affordability suffix (NC2-55 (M)) and the Roosevelt Station Area Overlay. The adjacent parcel to the west, 7012 Roosevelt Avenue N, is also zoned NC2-55 (M) with the Roosevelt Station Area Overlay. The applicant proposes to build a 91-unit multifamily structure on the two parcels (“development site”).

The development site is addressed 7012 Roosevelt Way NE and is located in the Roosevelt Urban Village, at the southeast corner of the intersection of NE 71<sup>st</sup> Street and Roosevelt Way NE. A vacant commercial structure is located at 7012 Roosevelt Way NE and a

single-family house is located at 1007 NE 71<sup>st</sup> Street. The development site comprises 9,801 square feet, of which 3,000 square feet is within the rezone area. Attachment A shows the area to be rezoned.

On May 2, 2022, the Director of the Seattle Department of Construction and Inspections (SDCI) recommended approval of the proposed rezone, with conditions. SDCI also issued a State Environmental Policy Act threshold determination of non-significance.

The Seattle Hearing Examiner held an open record hearing on the rezone on July 6, 2022. On August 3, 2022, the Hearing Examiner issued Findings and Recommendation that recommended approval of the rezone, subject to conditions. On September 14 and September 22, 2022, 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 3, 2022, with the following corrections to update the name of single-family zones to neighborhood residential:

3. Properties to the north, east and south are zoned NC2-55(M). Properties to the west are zoned LR1 (M1). Neighborhood Commercial (NC2-55) zoning continues north and south along Roosevelt Way NE. One block to the south the height limit increases to 75'. Immediately east of the project site the zoning designation shifts to multifamily lowrise (LR1) before transitioning to ~~((single-family))~~ neighborhood residential zoning the next block to the east.

### **Conclusions**

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Findings and Recommendation of the Hearing Examiner dated August 3, 2022, with the following addition:

37. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the subject site is NC2-55 (M2) with the Roosevelt Station Area Overlay (RO) and with a PUDA.

### **Decision**

The Council hereby **GRANTS** a rezone of the Property from LR1 (M1) to NC2-55 (M2) with the Roosevelt Station Area Overlay (RO), as shown in Exhibit A. The rezone is subject to the execution of Property Use and Development Agreements requiring the owners to comply with the following conditions found in the Hearing Examiner's recommendation.

#### **For the Life of the Project**

1. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation phase of review and in the materials submitted after the Recommendation phase of review, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner (Tami Garrett, [tami.garrett@seattle.gov](mailto:tami.garrett@seattle.gov)) or a SDCI assigned Land Use Planner.

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

2. Provide a Construction Management Plan that has been approved by Seattle Department of Transportation (SDOT). The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>.

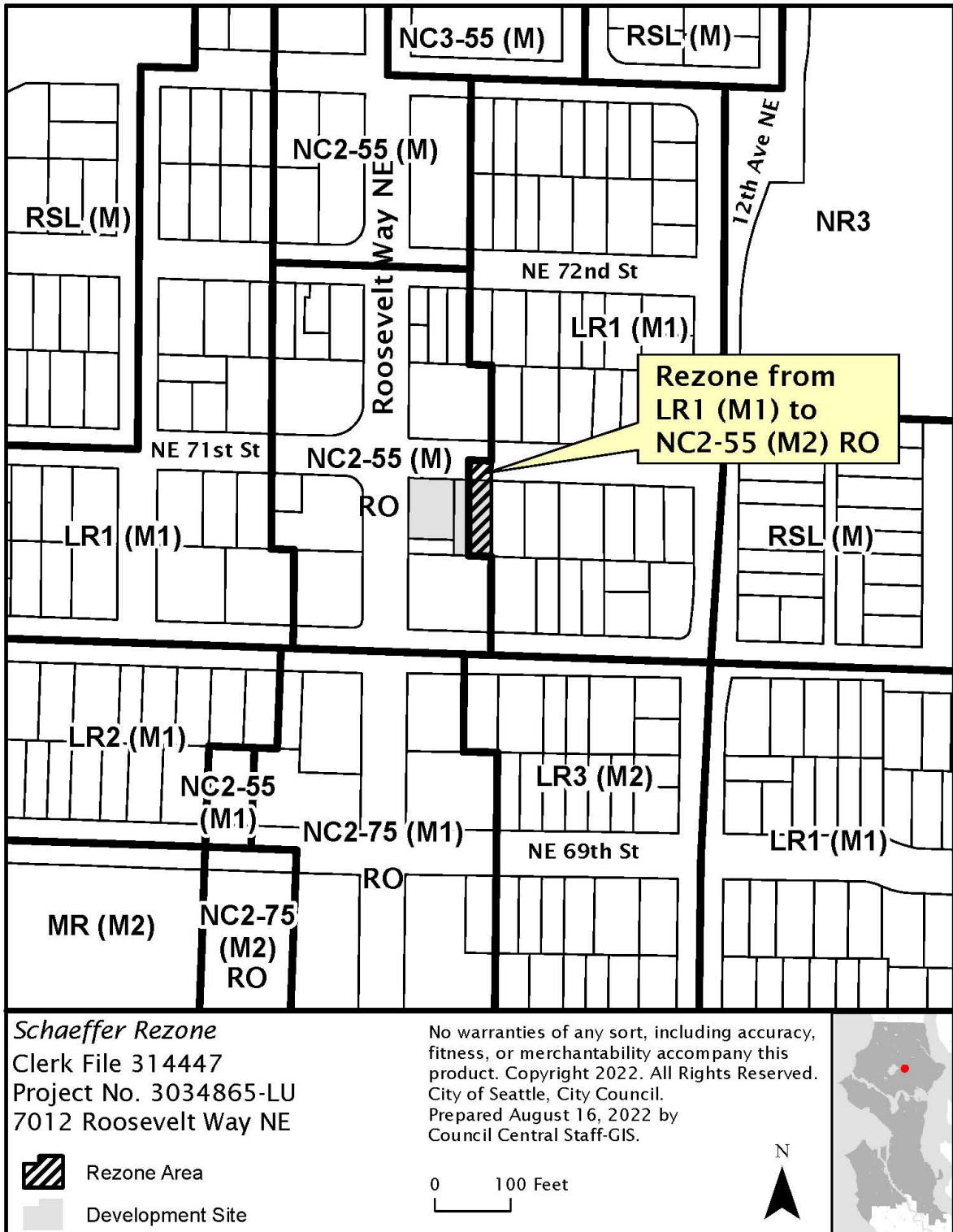
Prior to Issuance of a Master Use Permit

3. The rezone includes a Mandatory Housing Affordability designation of M2.
4. The rezoned property shall be subject to the provisions of SMC Chapter 23.58C.
5. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit record number 3034865-LU.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
City Council President

ATTACHMENT A



**Attachment 2 - Draft Council Bill including proposed PUDA  
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 43 of the Official Land Use Map to rezone the eastern thirty feet of the parcel located at 1007 NE 71<sup>st</sup> Street from Lowrise 1 with an M1 Mandatory Housing Affordability suffix (LR1 (M1)) to Neighborhood Commercial 2-55 with an M2 Mandatory Housing Affordability Suffix (NC 2-55 (M2)) with the Roosevelt Station Area Overlay (RO) and accepting a Property Use and Development Agreements as a condition of rezone approval. (Application of Hugh Schaeffer, SHW, C.F. 314447, SDCI Project 3034865-LU)

..body

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

Section 1. This ordinance rezones the eastern 30 feet of the following legally described property commonly known as 1007 NE 71st Street:

LOT 10 AND THE EAST 20 FEET OF LOT 11, BLOCK 1, PERKINS GREEN LAKE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED UNDER VOLUME 13, OF PLATS, PAGE 20, RECORDS OF KING COUNTY, WA.

Section 2. Page 43 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, is amended to rezone the eastern 30 feet of the Property described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Lowrise 1 with an M1 Mandatory Housing Affordability Suffix (LR1 (M1)) to Neighborhood Commercial 2-55 with an M2 Mandatory Housing Affordability Suffix (NC2-55 (M2)) and with the Roosevelt Station Area Overlay (RO). 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.



**Attachment 2 - Draft Council Bill including proposed PUDA**

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

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

**Attachment 2 - Draft Council Bill including proposed PUDA**

1 Section 6. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2022.

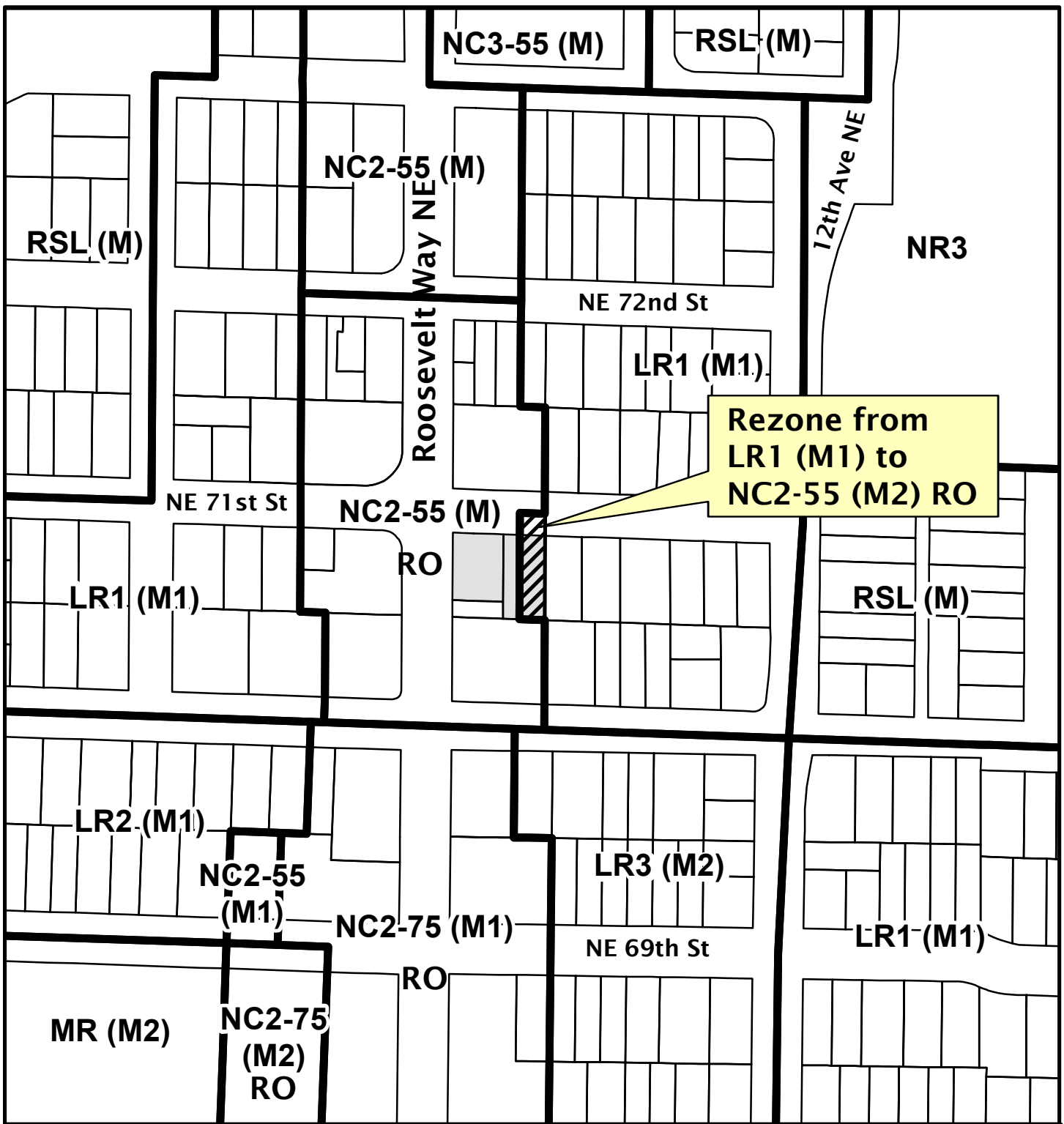
7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

10 \_\_\_\_\_  
11 Elizabeth M. Adkisson, Interim City Clerk

12 (Seal)  
13  
14  
15  
16

17 Exhibits:  
18 Exhibit A – Rezone Map  
19 Exhibit B – Property Use and Development Agreement for 1007 NE 71<sup>st</sup> Street



*Schaeffer Rezone*

Clerk File 314447

Project No. 3034865-LU

7012 Roosevelt Way NE



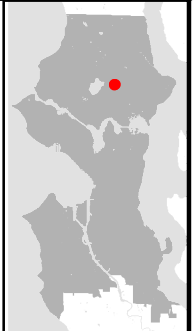
Rezone Area



Development Site

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0 100 Feet



**Property Use and Development Agreement**

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

**PROPERTY USE AND DEVELOPMENT AGREEMENT**

<b>Grantor(s):</b>	ISOLA REAL ESTATE VII, LLC
<b>Grantee:</b>	The City of Seattle
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	LOT 10 AND THE EAST 20 FEET OF LOT 11, BLOCK 1, PERKINS GREEN LAKE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED UNDER VOLUME 13, OF PLATS, PAGE 20, RECORDS OF KING COUNTY, WA.
<b>Assessor’s Tax Parcel ID #:</b>	6716700050
<b>Reference Nos. of Documents Released or Assigned:</b>	n/a

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the “Agreement”) is executed this \_\_\_ day of \_\_\_\_\_, 2022, in favor of the CITY OF SEATTLE (the “City”), a Washington municipal corporation, by ISOLA REAL ESTATE VII, LLC (“Owner”).

## RECITALS

A. ISOLA REAL ESTATE VII, LLC, is the owner of that certain real property consisting of a parcel (collectively “Parcel”) in the City of Seattle currently zoned Lowrise 1 multifamily residential with an M1 Mandatory Housing Affordability Suffix (LR1 (M1)) for its eastern 30 feet and Neighborhood Commercial 2-55 with an M Mandatory Housing Affordability Suffix (NC2-55 (M)) and the Roosevelt Station Area Overlay (RO) for its western 20 feet, shown in Attachment A and legally described as:

LOT 10 AND THE EAST 20 FEET OF LOT 11, BLOCK 1, PERKINS GREEN LAKE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED UNDER VOLUME 13, OF PLATS, PAGE 20, RECORDS OF KING COUNTY, WA.

B. In August 2020, the Owner submitted to the City an application under Project No. 3034865-LU for a rezone of the eastern 30 feet of the Parcel (the “Rezoned Property”) from LR1 (M1) to Neighborhood Commercial 2-55 with an M2 Mandatory Housing Affordability Suffix and the Roosevelt Station Area Overlay (RO) (NC2-55 (M2) (RO)) (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 Rezoned 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:

For the Life of the Project

1. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation phase of review and in the materials submitted after the Recommendation phase of review, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner (Tami Garrett, [tami.garrett@seattle.gov](mailto:tami.garrett@seattle.gov)) or a SDCI assigned Land Use Planner.

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

2. Provide a Construction Management Plan that has been approved by Seattle Department of Transportation (SDOT). The submittal information and review process for

Construction Management Plans are described on the SDOT website at:  
<http://www.seattle.gov/transportation/cmp.htm>.

Prior to Issuance of a Master Use Permit

3. The rezone includes a Mandatory Housing Affordability designation of M2.
4. The Rezoned Property shall be subject to the provisions of SMC Chapter 23.58C.
5. Development of the Rezoned Property shall be in substantial conformance with the approved plans for Master Use Permit record number 3034865-LU.

**Section 2. Applicability and Agreement Runs With the Land.** This Agreement only applies to the Rezoned Property and only if it is developed consistent with the Rezone and MUP No. 3034865-LU. 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 Rezoned Property and be binding upon the Owners, their heirs, successors and assigns, and shall apply to after-acquired title of the Owner.

**Section 3. Termination of Conditions.** The conditions listed in Section 1 of this Agreement shall expire if the Rezone expires according to SMC 23.76.060.C, or if the Rezone is revoked pursuant to SMC 23.34.004.

**Section 4. Amendment.** This Agreement may be amended or modified by agreement between then owner of the Rezoned Property and the City; provided any amendments are approved by the City Council by ordinance.

**Section 5. 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 6. No Precedent.** The conditions contained in this Agreement are based on the unique circumstances applicable to the Rezoned Property, and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

**Section 7. Repeal as Additional Remedy.** Owner acknowledges that compliance with the conditions of this Agreement is a condition of the Rezone and that if the Owner avails itself of the benefits of the 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 Rezone 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 \_\_\_\_, 2022.

ISOLA REAL ESTATE VII, LLC, a Washington limited liability company

By: \_\_\_\_

NAME

TITLE

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 \_\_\_\_, 2022.

		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  
REZONE MAP

