CF 319510

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STANDARD TRANSMITTAL FORM

Sender's Name: _____ **Phone Number / Extension:** _____

Department: _____ **Date of Transmittal:** _____

Division / Workgroup: _____ **Date Executed:** _____

Title of Document:	Full Unit lot subdivision
Document Number:	DPD Application No. 3017145/Type III
Authorizing or Related Legislation:	DPD No. 3006045 (C.F. 308906)
For Council Consideration?	☑ Yes ☐ No
SMC or other statute / policy requiring filing with the City Clerk *See chart on InWeb 'What to File' page: http://inweb/legislative_dep/WhatToFile.htm #AllDepartments*	SMC 23.22.072 SMC 23.22.074
Other identifying Numbers: *(Related projects, permits, etc.)*	
Street address and abbreviated legal description:	
Actions to be taken by the City Clerk's Office:	

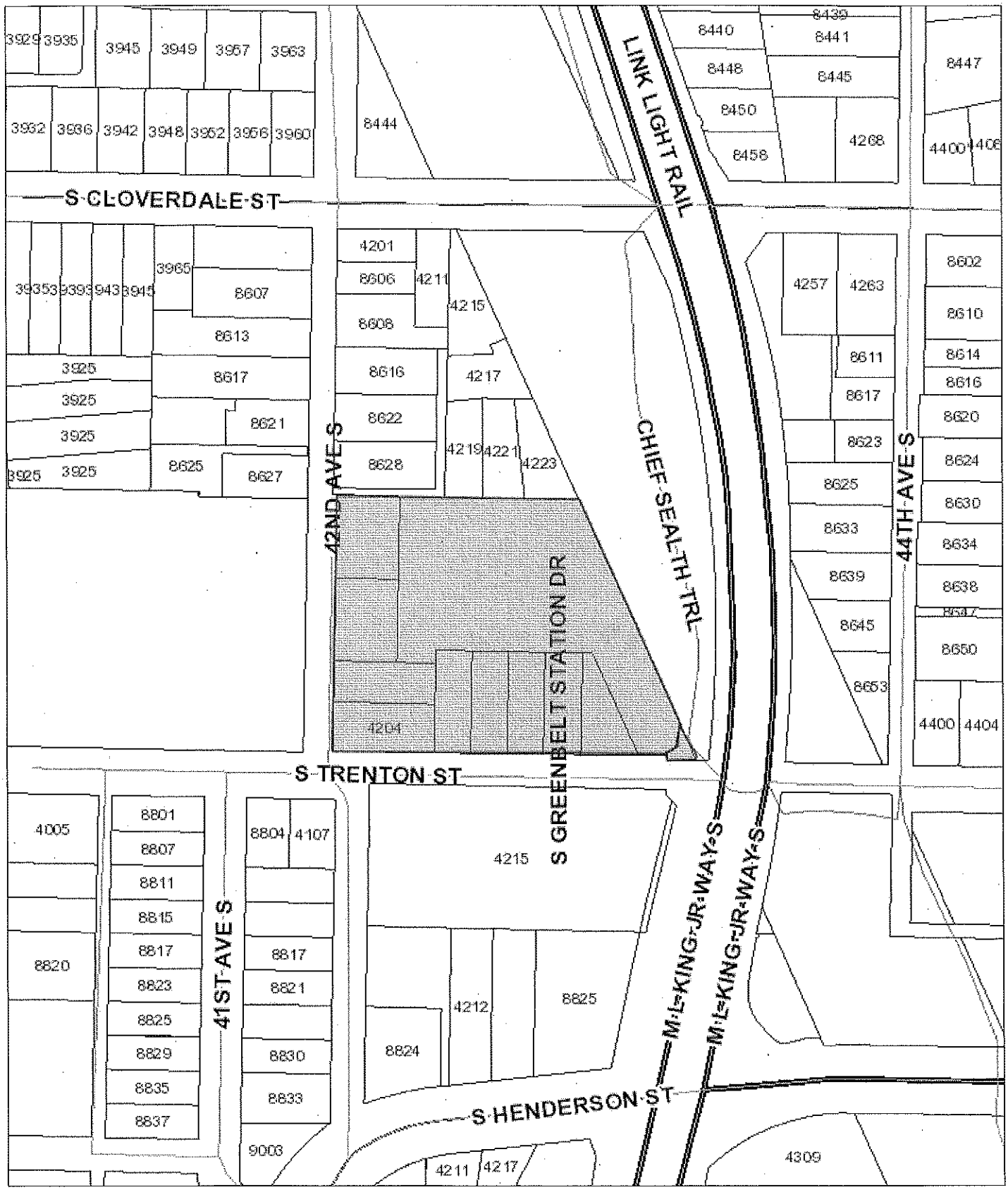
Notes / Comments:

→ application of Othello Partners to subdivide ~~[illegible]~~ 10 parcels into 67 unit lots at 4204 S. Trenton St.

3017145 Full Unit Lot Sub

4204 S TRENTON ST

Feet
0 150



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).

11/9/2015

City of Seattle
Department of Planning and Development
Applicant Services Center

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Land Use Referrals

Type of Approvals: **Full Unit Lot Subdivision**

Project Number: **3017145**

Site Address: **4204 S TRENTON ST**

Environmental Review Required? **No**

Full Subdivision	PCD/Public Projects	Rezone/Council Cond. Use	Major Inst. Master Plan/PD's	Short Plat/LBA	Shoreline Permit	Other _____	Selected Agencies	Please Review the attached application and send your response within fourteen (14) days to: LU Routing Coordinator: **PRC** E-Mail: prc@seattle.gov Fax #: (206) 233-7901 Mail Stop: SMT-21-00 Assigned Planner: **COLIN VASQUEZ** Email: colin.vasquez@seattle.gov
■			■	■				Addressing
■								Building Plans Examiner
■	■	■	■				X	City Clerk (CH 03-10)
■				■				City Light Plan Review Team (SMT 3460) - ***LBAs, SPs, Full Subs only***
■			■	■				City Light Real Estate (SMT 3012) – ***Unit Lot Sub and Full Unit Lot Sub only***
					■			Department of Natural Resources
■	■		■	■				Drainage Review
■			■	■				Fire (FM 02-04) ** ***Fire review not required for short ULS when ONLY creating unit lots*** **
								Geo-technical Engineer (for ECA Potential Slide)
■			■					Health (PH-1100)
■	■		■		■			Metro – Environmental Planning
■								Office of Housing –SMT-57-00
								Other
■			■					Parks & Recreation (PK 01-01)
■								SDOT – Street Use (SMT - 3900)
								Sign Inspector
■		■	■	■				Water (SMT 49-00)
■				■				WSDOT- To: Local Area Manager PO Box 330310, Seattle, WA 98133-9710
■			■	■				Zoning Review

Application Date

Date Referred: Click here to enter a date.

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DEPARTMENT OF PLANNING & DEVELOPMENT

Land Use Information Bulletin

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Notice of Application

Comment on Application | How to Request an Interpretation

Council Land Use Action to Rezone 86,652 sq. ft. of land from SF 5000 to L2 and allow construction of 72 residential units. Parking for 108 vehicles to be provided. (15 surface parking spaces, 40 below grade, and 53 within the structures) Project includes environmental review of a full unit lot subdivision. Existing structures to be removed.

Project:	3006045
Address:	4204 S TRENTON ST
Area:	South
Zone:	SF5000
Contact:	JENNIFER LEE
Contact phone:	(206)624-6239
Planner:	Holly Godard
Planner phone:	(206)615-1254
Application date:	09/06/2007
Date deemed complete:	08/24/2007
Comments may be submitted through:	09/19/2007
Conditions:	The following approvals are required:

SEPA ENVIRONMENTAL DETERMINATION

Other permits that may be needed which are not included in this application:

Building Permit

Map:
The top of this image is North.
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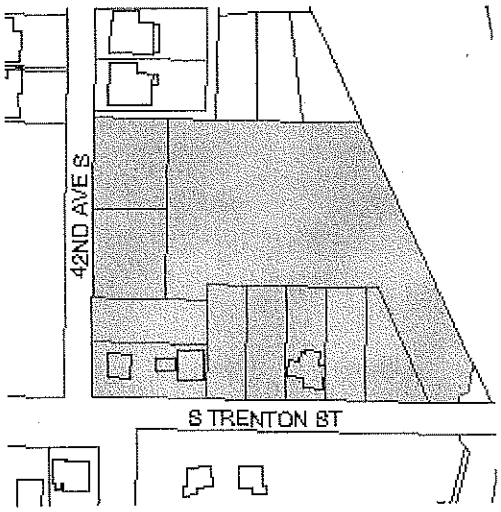

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Land Use Information Bulletin

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Notice of Application

Comment on Application | How to Request an Interpretation

Council Land Use Action to contract rezone 110,000 sq. ft. of land (as bounded by M.L.King Jr. Way S to the East, S. Trenton St to the South, 42nd Ave S to the West) from SF 5000 to L2 to allow 67 residential units within 31 structures. Environmental review includes a full unit lot subdivision (10 parcels in to 67 unit lots) and 16,280 cu. yds. of grading. Parking for 95 vehicles to be provided (33 surface, 37 in below grade garage and 25 within 9 structures). Existing structures to be removed.

Project:	3006045
Address:	4204 S TRENTON ST
Area:	South
Zone:	AIRPORT HEIGHT DISTRICT, LOWRISE-1, SINGLE FAMILY 5000
Contact:	BRITTANI ARD
Contact phone:	(206)282-7990
Planner:	Holly Godard
Planner phone:	(206)615-1254
Application date:	08/06/2007
Date deemed complete:	02/23/2009
Comments may be submitted through:	03/11/2009

Conditions: The following approvals are required:

SEPA Environmental Determination (This project is subject to the Optional DNS Process (WAC 197-11-355) and Early DNS Process (SMC 25.05.355). This comment period may be the only opportunity to comment on the environmental impacts of this proposal.)

Council Rezone from Single Family 5000 to Lowrise 2.

Full Subdivision to subdivide site into 67 unit lots.

Other permits that may be needed which are not included in this application:

Building Permit
Grading Permit

Map:
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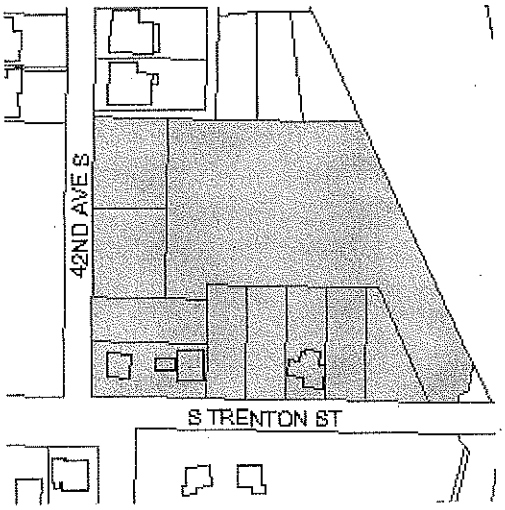

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DEPARTMENT OF PLANNING & DEVELOPMENT

Land Use Information Bulletin

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NOTICE OF DIRECTOR'S RECOMMENDATION ON REZONE APPLICATION, AND ON A FULL SUBDIVISION APPLICATION, ENVIRONMENTAL DETERMINATION AND HEARING EXAMINER OPEN RECORD HEARING

Attachments:	View Decision
Project:	3006045
Address:	4204 S TRENTON ST
Area:	South
Zone:	SINGLE FAMILY 5000
Contact:	STEVE RAUF
Contact phone:	(425)765-8869
Planner:	Holly Godard
Planner phone:	(206)615-1254

Conditions: Council File Number: 308906

The City of Seattle Hearing Examiner is conducting a public hearing on the recommendation of the Director of the Department of Planning and Development (DPD) to rezone property from Single Family 5,000 (SF 5000) to Lowrise 2 (L2) to allow 67 residential units within 31 structures as a contract rezone. Environmental review includes a full unit lot subdivision (one development site consisting of 10 parcels to be divided into 67 unit lots) and 16,280 cubic yards of grading. Parking for 95 vehicles to be provided. Existing structures to be removed.

REZONE RECOMMENDATION

The Director's recommendation is that the rezone be **Conditionally Approved.**
Conditions: Conditions have been placed on this project. You may view the decision through our web-based Land Use Information Bulletin, or contact either the assigned planner whose name and phone number appears above, or contact the Public Resource Center (206-684-8467, prc@seattle.gov).

ENVIRONMENTAL DETERMINATION

The Director of DPD has determined that the proposal will not have a significant adverse environmental impact, and has issued a Declaration of Non-Significance with conditions (no environmental impact statement required).
Conditions: Conditions have been placed on this project. You may view the decision through our web-based Land Use Information Bulletin, or contact either the assigned planner whose name and phone number appears above, or contact the Public Resource Center (206-684-8467, prc@seattle.gov).

SUBDIVISION RECOMMENDATION

The Director's recommendation is that the subdivision be **Conditionally Approved**.
Conditions: Conditions have been placed on this project. You may view the decision through our web-based Land Use Information Bulletin, or contact either the assigned planner whose name and phone number appears above, or contact the Public Resource Center (206-684-8467, prc@seattle.gov).

INFORMATION AVAILABLE

Copies of the Director's Report and Recommendation and the rezone application materials are available at the DPD Public Resource Center, 700 Fifth Avenue, Suite 2000 of the Seattle Municipal Tower, (206) 684-8467. The Public Resource Center is open 7:30 a.m. to 5:30 p.m. on Monday, Wednesday, Friday and 10:30 a.m. to 5:30 p.m. on Tuesday and Thursday. (A copy and postage fee will be charged.) Questions may be directed to Holly Godard (615-1254) at DPD.

PUBLIC HEARING AND OPEN RECORD HEARING

A public hearing to take public comment on the Director's recommendation and to establish the record for this application AND a public hearing on the application for preliminary approval of the subdivision will be held on **Tuesday August 31** at **9:00 a.m.** at the **Office of the Hearing Examiner** (address below). The Office of the Hearing Examiner provides barrier free access.

WRITTEN COMMENTS

Written comments will be accepted until the close of the hearing scheduled for **August 31, 2010.** Comments should be sent to:

City of Seattle
Hearing Examiner
700 5th Avenue, Suite 4000
P.O. Box 94729
Seattle, WA 98124-4729

Those persons who want to receive a copy of the Hearing Examiner's recommendation should specify that request in their comment letter.

HOW TO APPEAL THE ENVIRONMENTAL DETERMINATION

Appeals of the decision to issue a Declaration of Non-Significance must be received by the Hearing Examiner at the address shown above no later than 5:00 p.m. **August 12, 2010.** Appeals must be accompanied by $50.00 filing fee in a check payable to the City of Seattle.

REQUEST FOR FURTHER CONSIDERATION

Any person significantly interested in or affected by the proposed subdivision may request further consideration of the Director's recommendation and may appeal the Director's procedural environmental determination. Requests for further consideration of the Director's recommendation on the rezone and the subdivision must be submitted to the Hearing Examiner before the close of the hearing scheduled for **August 31, 2010.**

Requests for further consideration and any appeals of the threshold determination will be heard on the same day as the open record hearing described above.

Map:
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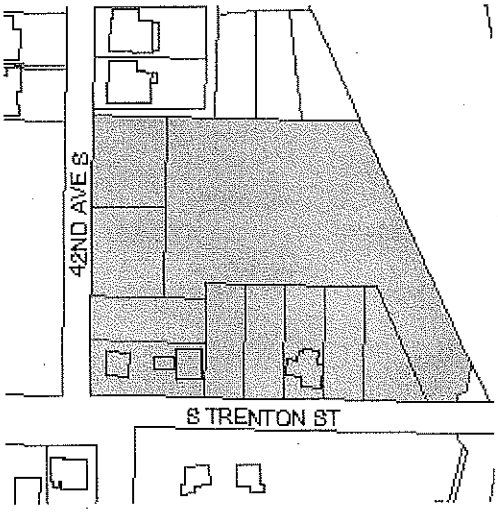

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City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND RECOMMENDATION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number:	3006045
Applicant Name:	Steve Rauf for REI partners, LLC
Address of Proposal:	4204 S Trenton Street
Clerk File number	308906

SUMMARY OF PROPOSED ACTION

Council Land Use Action to contract rezone approximately 110,000 square feet of land (bounded by M.L. King Jr. Way South to the East, S. Trenton Street to the South, 42nd Avenue South to the West) from SF 5000 to L2 to allow 67 residential units within 31 structures. Environmental review includes a full unit lot subdivision (one development site consisting of 10 parcels to be divided into 67 unit lots) and 16,280 cubic yards of grading. Parking for 95 vehicles to be provided (33 surface, 37 in a below grade garages, and 25 within 9 structures). The existing structures are proposed to be removed.

The following approvals are required:

Contract Rezone - To rezone a site from SF 5000 to L2 in conjunction with construction of 67 residential units- Seattle Municipal Code 23.34.004

SEPA - Environmental Determination - Seattle Municipal Code Chapter 25.05.

Full Subdivision (Unit Lot) – Seattle Municipal Code Chapter 23.22.062

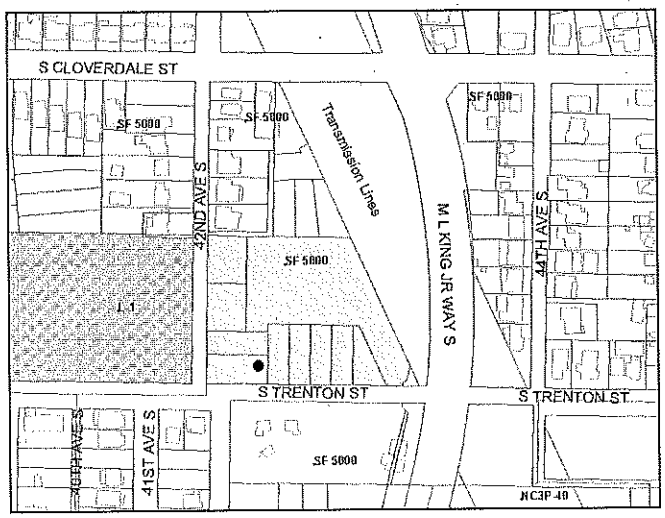
SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[X] DNS with conditions

[ ] DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description



The project site is at the northeast corner of 42nd Avenue south and South Trenton Street. It is located within the Rainier Beach Residential Urban Village of Seattle. The site is bounded by the extension of 42nd Avenue South on the west, Martin Luther King Jr. Way South, South Trenton Street and the City of Seattle Transmission Lines on the east. The north boundary is private property. Martin Luther King Junior Way South provides access between the site and regional principal arterials and highways. The surrounding land use is primarily developed with single family housing. There is a retail development one block southwest of the site, and other retail development located along Martin Luther King Jr. Way South. The site is located one block north of the Rainier Beach (Henderson) Link Light Rail Station. The site has an existing single family residential unit.

Proposal Description

The proposal is a Council Land Use Action to contract rezone approximately 110,000 square feet of land, bounded by M. L. King Jr. Way South to the East, S. Trenton St. to the South, 42nd Avenue South to the West, from a Single Family (SF 5000) zone to a Lowrise 2 (L2) zone. The proposal is to allow 67 residential units within 31 structures. The Environmental review includes a full unit lot subdivision (one development site consisting of 10 parcels to be developed into 67 unit lots) and 16,280 cubic yards of grading. Parking for 95 vehicles is proposed to be provided at surface, within structures and in garages. (33 surface, 37 in below grade garages, and 25 within 9 structures). The existing house is proposed to be removed.

The proposal is to build a townhouse community with a variety of townhouse configurations which include parking, open space, light and air. The townhouses would be two stories high, and constructed in blocks of two to four. Those that are situated along South Trenton Street are setback from the street and each has a front door facing South Trenton. The scale is compatible with single family structures.

The proposal includes an internal path, set aside by easements, to get to the east edge of the subject property where the Chief Sealth Trail /Seattle Transmission Lines pass. The proposal also includes right of way dedications along south Trenton Street and 42nd Avenue South.

Public Comments

The City received no comments during the first official comment period which ended on September 19, 2007. A full unit lot subdivision was added as a component to this project so the project application was re-noticed. No comments were received during the second official comment period which ended March 11, 2009.

ANALYSIS - REZONE

A contract rezone from SF 5000 to L2 requires several stages of analysis. Contract rezones are subject to the procedures outlined in (SMC section 23.34.004). Analysis of the rezone criteria includes code sections of General rezone criteria (SMC section 23.34.008), Designation of single-family zones where the code states that "single-family zoned areas may be rezoned to zones more intense than single-family 5000 only if the City council determines that the area does not meet the criteria for single-family designation." (SMC section 23.34.010). Analysis must also consider single-family zones, function and locational criteria (SMC section 23.34.011). The last section for analysis is Lowrise 2 (L2) zone, function and locational criteria (SMC section 23.34.018). The following analysis will discuss the code criteria and the merits of the proposal. Code language is in italics followed by criteria discussion. This analysis follows the code citations in their numerical order as mentioned above.

Contract rezones are described in the following Land Use section (SMC 23.34.004).

A. Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to 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 shall be directly related to the impacts that may be expected to result from the amendment. A rezone shall be conditioned on performance or compliance with the terms and conditions of the property use and development agreement. Council may revoke a contract rezone or take other appropriate action allowed by law for failure to comply with a PUDA. The agreement 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.

Key provisions of the applicant's proposal include a unit lot full subdivision to allow fee-simple sale of each dwelling unit and phased development to facilitate financing of the proposal. Specifically, the applicant has divided the proposed development into three construction phases. Phase 1-A includes 20 units to be constructed in the southeasterly portion of the site in conjunction with required street improvements along S. Trenton St. Phase 1-B includes 24 units in the northeasterly portion of the site and Phase 2 includes 23 units on the westerly portion of the site, including required street improvements to 42nd Ave S. and the intersection of 42nd Ave S and S Trenton St. The applicant proposes to complete Phase 1-A construction of both 20 units and the required S. Trenton St. street improvements with the intent to sell the units prior to any requirement to complete other street improvements.

While a rezone is necessary for both the proposed development and unit lot subdivision to be conforming to Land Use Code, the proposed contract rezone and subsequent development can proceed without the unit lot subdivision as long as street right-of-way dedications and improvements are made. RCW 58.17.140, as amended by the Legislature in 2010, now allows applicants 7 years to file a final plat after receiving preliminary plat approval. The state statute allows local government to extend beyond 7 years. Furthermore, RCW 58.17.170 allows that a subdivision shall be governed by the terms of approval and regulations in effect at the time of

approval under RCW 58.17.150 for a period of 7 years after final plat approval. While the development contemplated may or may not be subject to this provision due to the rezone, in order to meet the intent and requirement for state statutes governing plats, the Director recommends that the contract rezone be valid until at least 7 years after final plat recording provided that street improvements are completed or bonded for completion within required timeframes.

In order to satisfy the street right of way and dedication requirements of the proposal, the applicant is requesting to complete the unit lot full subdivision process by dedicating required right of way on the plat and bonding for future street improvements to be completed after recording of the plat. The Director supports the concept of phased development which can minimize some development impacts to the surrounding community by completing street improvements at the same time as adjacent structures are constructed rather than subject the neighborhood to infrastructure construction in advance of future construction. Given the nature of unit lot subdivisions which limit future development on any and all unit lots to that which is conforming to the entire parent lot, it is important to protect unit lot owners from parent lot non-conformities such as if the rezone were to revert due to failure to complete the project. Therefore, the Director recommends that the Property Use and Development Agreement include provisions to ensure appropriate completion of the project and projection for the first set of unit lots that are sold:

1) The Director recommends that no residential units or unit lots should be separately sold from any other residential unit or unit lot prior to the rezone considered to be permanent.
2) The Director recommends that the rezone be considered permanent once Phase 1a residential construction is completed, all street dedications have been accepted by the City Council, 42nd Ave S street improvements are completed or fully bonded for completion, and S. Trenton St street improvements have been completed.

B. Waiver of Certain Requirements. The ordinance accepting the agreement 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 which would be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

Rezone evaluation is outlined in Land Use section SMC 23.34.007.

The proposed rezone must meet the General rezone criteria. (SMC section 23.34.008).

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 one hundred twenty-five percent (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 be within the density ranges established in Section A1 of the Land Use Element of the Comprehensive Plan.*

As stated in Seattle's Comprehensive Plan Urban Village Policy UV 42, growth targets are based on zoned capacity for development within urban centers, and are not to exceed 80 percent of that capacity (since development at 100 percent of capacity is not likely to be achieved.). This same concept, expressed in the code, states that zoned capacity must be at least 125 percent of the adopted growth target (i.e., 1.25 x 80 =100). The adopted growth targets for the Rainier Beach Residential Urban Village are found in Urban Village Appendix A of the Comprehensive Plan. These targets call for an increase of 600 additional households by the year 2024, and an increase in household per acre density from the current 5 to 8. Because these growth targets are not yet met and the proposed rezone from SF 5000 to L2 helps to meet these targets, Criterion A is met.

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 location criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation.

Analysis of the match between zone criteria and area characteristic follows in the summary at end of the rezone analysis section. The analysis more logically follows an evaluation of the site and the proposed project's fit with single family zoning (23.34.010 and .011) and L2 zoning (23.34.018 and .020).

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

In 1907 the site was part of the Rainier Beach annexation into the City of Seattle. In 1923 it was zoned First Residence District. In 1947 the site was zone R1-A (First Residence District, Area District A). The subject rezone area was designated RS 5000, Single Family 5000, in 1957. The single family zoning designation was labeled SF 5000, single family 5000, in 1982. The City of Seattle Transmission Lines easement appears on the historical zoning maps in 1981.

Rezoning from Single Family in this case would not be precedential because this particular are is specified by 23.34.010B2c as a Single Family zone eligible for LDT, L1 or L2 designation.

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.*

The current Neighborhood Planning Element of Seattle Comprehensive Plan for the Rainier Beach Residential Urban Village neighborhood was adopted in 1999 by Ordinance 119614. Seattle Municipal Code Ordinance number 123046 and Council Bill number 116551 was signed by the Mayor of Seattle on July 28, 2009. In that ordinance Section 23.34.010 was amended to include the following language which specifically includes this site.

The subject rezone area is identified as being located within the Rainier Beach Residential Urban Village in the Comprehensive Plan and RB-P4 specifically addresses this proposal site. Thus, this parcel meets the criteria specifically identified as an appropriate candidate for a rezone.

The Rainier Beach Residential Urban Village neighborhood plan is found in *Seattle's Comprehensive Plan*. The land use policies anticipate future rezones to higher densities.

RB-P1 Encourage the revitalization of the Henderson Street corridor as a conduit between the future light rail station at Martin Luther King, Jr. Way and the commercial center along Rainier Avenue South.

RB-P2 Seek to promote transit-oriented development around Rainier Beach's proposed light rail station at Martin Luther King, Jr. Way and South Henderson Street.

RB-P4 Seek to preserve all single family zoned areas' character. Encourage residential small lot opportunities within single-family areas within the designated residential urban village, and in the area within the residential urban village west of Martin Luther King Boulevard S., permit consideration of rezones of single-family zoned land to the Lowrise Duplex Triplex (LDT), Lowrise 1 (L1), or Lowrise 2 (L2) designations.

RB-P5 Encourage the City to support rezones within the Rainier Beach Residential Urban Village for projects that:

A. meet the overall community vision,

B. promote redevelopment of underutilized and derelict sites, and

C. result in pedestrian-friendly, well-designed new buildings.

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

1. *The impact of more intensive zones on less intensive 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 proposal is for a rezone from single-family 5000 to Lowrise 2 (L2). The proposal would create a zone boundary at the single-family zone to the north. Currently a private access easement is located at that boundary edge between this proposed L2 zone and the single-family zone. The area to the east will remain The City of Seattle Transmission Lines, the south and west boundaries would have street rights of way, S. Trenton Street and 42nd Avenue S. as a buffer. The building height limit of the single family zone is 30 feet with a 5 foot pitched roof

allowance. The height limit of structures in the L2 zone is 25 feet with a 10 foot sloped roof bonus. The rezone proposal will have the most height, bulk, and density impact along the north property line where the zoning changes to single-family zoning. The proposal does, however provide a transition with code required setbacks of between 5 and 8 feet along that property line. The proposal is compatible with bulk and scale transitions, height limitations and transmission line easement open space.

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 spaces and greenspaces.

There are no natural features to consider as topographic breaks along the property lines of this proposal. The City of Seattle Transmission Lines border the site on the east and M.L. King Jr. Way, a major traffic arterial, shares the 200 foot wide Transmission swath. This large easement area gives a sense of open green space even though the transmission wires are overhead. Across 42nd Avenue South there is the East Duwamish Greenbelt, a large greenbelt park. The greenbelt block at this location is mostly a mix of trees and shrubs. The single-family zone to the south is somewhat buffered by the 35 foot wide right of way of South Trenton Street. There is no physical buffer that provides separation between the subject parcel and the less intensive single-family zone to the north.

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 L2 zoning boundary would follow platted lot line lines on the north and east and run through 42nd Avenue South and South Trenton Street on the west and south boundaries.

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 contract rezone proposal does not add commercial uses or affect the boundaries of commercial areas.

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 proposal would provide additional housing in the area, although the proposal is not expressly low-income housing.

b. Public services;

Public services will be available for the development proposal impacts: the proposal has received a Water Availability Certificate ID No. 20090199, sewer extensions are under review and will be designed to City and County standards. The proposed parcels will have vehicular access to South Trenton Street. The Seattle Fire Department has no objection to the proposal. Seattle City Light reviewed the proposal and has provided an easement to provide for electrical facilities and service to the proposed lots. The accompanying full unit lot subdivision will be conditioned to provide for adequate access for vehicles, utilities, and fire protection. The applicant has coordinated street improvement plans with SDOT. A public storm drain runs beneath S. Trenton St. This public storm drain will receive the site's stormwater discharge.

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

Environmental factors are expected to be commensurate with any development of this scale and pose no or non-significant negative impacts. This conclusion is based on the environmental analysis conducted in compliance wit SEPA and is associated with this rezone evaluation.

d. Pedestrian safety;

Pedestrian safety is addressed in design solutions that provide sidewalks, crosswalks, site lines and signage.

e. Manufacturing activity;

Manufacturing activity is not anticipated in this proposal.

f. Employment activity;

Employment activity is not anticipated in this proposal. The proposal will increase workforce housing to support employment centers in nearby areas.

Character of areas recognized for architectural or historic value;

No areas recognized for architectural or historic value are impacted by this proposal.

g. Shoreline view, public access and recreation;

The proposal is not located in a shoreline area.

There will be impacts to the surrounding area with this proposed rezone although any adverse impacts are expected to be minor. The PUDA will limit the proposed development to below code-allowed density for an L2 zone. Some parkland and a transmission line right of way buffer the surrounding area. The rezone proposal will provide additional housing near the link light rail station and the commercial area in the Rainier Beach Residential Urban Village. Housing is a good addition at this location to help support the light rail and the nearby commercial area, and only minor environmental impacts are expected. Locating higher density in and near commercial neighborhood nodes is a goal of the Comprehensive Plan. The proposal is expected to primarily have a positive impact on the immediate area.

2. Service Capacities. Development which can reasonable 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.

Service Capacities are not anticipated to be exceeded by the additional demand this proposal will create. Streets that border the proposal will be widened and built to standards, there is enough traffic volume capacity on the streets in the area and there will be an increase in capacity with the new improvements adjacent to the project. There will be increased street access, roadway capacity and light rail links in the area. There is parking proposed onsite and offsite parking will be available. The utility and sewer/drainage services are available and designed to meet the housing density of the proposal and area being reviewed by SPU and approved as part of the simultaneous Street Improvement Process (SIP). There are no navigable waters near the proposal. This contract rezone should have no impact 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 circumstance shall be limited to elements or conditions included in the criteria for the relevant zone and/or overlay designations in this chapter.

There are evolving circumstances in the area which when considered with the elements of the Lowrise 2 (L2) zoning criteria appear to be favorable for the contract rezone proposal. For instance, the Urban Village designation means that this area is envisioned to receive more density. The link light rail station is nearby and denser nodes of housing and activity are in step with directing growth to Urban Villages.

Seattle Municipal Code Ordinance number 123046 and Council Bill number 116551 was signed by the Mayor of Seattle on July 28, 2009. In that ordinance Section 23.34.010 was amended to include the following language which specifically includes this site:

c. Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1) or Lowrise 2 (L2) zone (SMC 23.34.010B2c).

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

The parcel is not located within an overlay district.

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.

Steep slope environmental critical areas are located off site to the west and should not be adversely affected by the rezone or future development of the site.

Designation of single-family zones (23.34.010)

A. Except as provided in subsection B or C of this section, single-family zoned areas may be rezoned to zones more intense than single-family 5000 only if the City Council determines that the area does not meet the criteria for single-family designation.

Subsection B is partially met by this contract rezone proposal.

B. Area zoned single-family or RSL that meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 and are located within the adopted boundaries of an urban village may be rezoned to zones more intense than single-family 5000 when all of the following conditions are met:

1. A neighborhood plan has designated the area as appropriate for the zone designation;

The Rainier Beach Residential Urban Village neighborhood plan is found in *Seattle's Comprehensive Plan*. The land use policies noted here anticipate future rezones to higher densities. RB-P4 (see below) specifically addresses this proposal site and designates it as an appropriate area for the L3 zone designation.

RB-P1 Encourage the revitalization of the Henderson Street corridor as a conduit between the future light rail station at Martin Luther King, Jr. Way and the commercial center along Rainier Avenue South.

RB-P2 Seek to promote transit-oriented development around Rainier Beach's proposed light rail station at Martin Luther King, Jr. Way and South Henderson Street.

RB-P4 Seek to preserve all single family zoned areas' character. Encourage residential small lot opportunities within single-family areas within the designated residential urban village, and in the area within the residential urban village west of Martin Luther King Boulevard S., permit consideration of rezones of single-family zoned land to the Lowrise Duplex Triplex (LDT), Lowrise 1 (L1), or Lowrise 2 (L2) designations. (Underline added for emphasis)

RB-P5 Encourage the City to support rezones within the Rainier Beach Residential Urban Village for projects that: A. meet the overall community vision, B. promote redevelopment of underutilized and derelict sites, and C. result in pedestrian-friendly, well-designed new buildings.

2. *The rezone is:*

a. To a Residential Small Lot (RSL), Residential Small Lot-Tandem (RSL/T), Residential Small Lot-Cottage (RSL/C), Residential Small Lot-Tandem/Cottage (RSL/TC), Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1), or Lowrise 1/Residential-Commercial (L1/RC), ***or***

b. Within the areas identified on Map P-1 of the adopted North Beacon Hill Neighborhood Plan, and the rezone is to any Lowrise zone, or to an NC1 zone or NC2 zone with a 30' or 40' height limit.

This section is not applicable.

c. Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1) or Lowrise 2 (L2) zone.

Section c (above) applies as this project location is with in the described area of Rainier Beach Neighborhood and the rezone is to a Lowrise 2 zone. And it appears that the proposal meets the overall community vision, promotes redevelopment of underutilized and derelict sites, and results in pedestrian-friendly, well-designed new buildings.

Areas zoned single-family within the Northgate Overlay District, established pursuant to Chapter 23.71, that consist of one or more lots and meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 may be rezoned through a contract rezone to a neighborhood commercial zone if the rezone is limited to blocks (defined for the purpose of this subsection C as areas bounded by street lot lines) in which more than 80% of that block is already designated as a neighborhood commercial zone.

The proposal is not within the Northgate Overlay district.

<u>Single-family zones, function and locational criteria (23.34.011)</u>

Single-family zones function as areas that provide predominantly detached single-family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods. As stated above, a single family zoned parcel may be rezoned to another classification only if the applicant can demonstrate that the area does not meet the criteria for single family designation (SMC 23.34.010). There are two criteria that must be analyzed, and these include function, locational criteria and size criteria (SMC 23.34.011)

A. Function. An area that provides predominately detached single-family structures on lot sizes compatible with the existing pattern of development and the character of single-family neighborhoods.

The subject development parcel is comprised of 10 lots. It is a mix of lot sizes that meet and exceed the single-family 5,000 lot size. There are lots at just over 5,000 square feet, some at just over 7,000 square feet and one large parcel at 54,140 square feet. This development parcel is thus partially suited for the single-family 5,000 lot sizes; the north end of the block does have lots that more closely meet the 5,000 square foot regulation. The lot across South Trenton Street to the south is another large parcel at 55,832 square feet. There is one residential unit on it and it is owned by the Central Puget Sound Regional Transit Authority. Caddy corner to the proposal site is classic single-family 5,000 square foot platting. The subject parcel could be subdivided to meet the single-family platting as could the large parcel across South Trenton Street. The subject parcels do not appear to fully meet the intended function of a single-family zone.

B. Locational Criteria. A single-family zone designation is most appropriate in areas meeting the following criteria:

1. *Areas that consist of blocks with at least seventy percent (70%) of the existing structures in single-family residential use; or*
2. *Areas that are designated by an adopted neighborhood plan as appropriate for single-family residential use; or*
3. *Areas that consist of blocks with less than seventy percent (70%) of the existing structures in single-family residential use but in which an increasing trend toward single-family residential use can be demonstrated; for example:*
    a. *The construction of single-family structures in the last five (5) years has been increasing proportionately to the total number of construction for new uses in the area, or*
    b. *The area shows an increasing number of improvements and rehabilitation efforts to single-family structures, or*
    c. *The number of existing single-family structures has been very stable or increasing in the last five (5) years, or*
    d. *The area's location is topographically and environmentally suitable for singe-family residential developments.*

The Land Use Code defines a block as consisting of two facing block fronts bounded on two sides by alleys or rear property lines and on two sides by the centerline of platted streets, with no other intersecting streets intervening (Section 23.84.004). The subject parcel is located in the south half of two opposite block fronts. There is a green belt across 42nd Avenue South and the remaining 30 lots have 14 structures all in residential use. Thus, more than 70% of the structures that exist are in residential use. The site meets the first criterion B-1.

There is however a lot of undeveloped land on this large development parcels including the large parcel across South Trenton Street. The trend in the immediate vicinity appears to be toward uses that support the Residential Urban Village, the light rail, the light rail station and the nearby Neighborhood Commercial zone. However, the neighborhood plan suggests this area as appropriate for rezone to Lowrise use. The site does not meet criterion B-2.

The area consists of more than 70% structures in residential use. Criterion B-3 is not met.

C. *An area that meets at least one (1) of the locational criteria in subsection A above should also satisfy the following size criteria in order to be designated as a single-family zone:*

1. *The area proposed for rezone should comprise fifteen (15) contiguous acres or more, or should abut an existing single-family zone.*
2. *If the area proposed for rezone contains less than fifteen (15) contiguous acres, and does not abut an existing single-family zone, then it should demonstrate strong or stable single-family residential use trends or potentials such as:*
    a. *That the construction of single-family structures in the last five (5) years has been increasing proportionately to the total number of construction for new uses in the area, or*
    b. *That the number of existing single-family structures has been very stable or increasing in the last five (5) years, or*
    c. *That the area's location is topographically and environmentally suitable for single family structures, or*
    d. *That the area shows an increasing number of improvements or rehabilitation efforts to single-family structures.*

The subject parcel meets one of the locational criteria in Subsection A above; therefore an analysis of the size criteria is required. The area does abut an existing single-family zone to the north. The proposed parcels meet this criterion.

D. Half-blocks at the edges of single-family zones which have more than fifty percent (50%) single-family structures, or portions of blocks on an arterial which have a majority of single-family structures, shall generally be included. This shall be decided on a case-by-case basis, but the policy is to favor including them.

The subject parcel is not part of a half-block that meets this description; therefore this section is not applicable.

<u>Lowrise 2 zone function and locational criteria. (SMC 23.34.018).</u>

The proposed rezone must meet the criteria for designation of a Lowrise 2 zone (SMC 23.34.018).

A. Function. The intent of the Lowrise 2 zone is to encourage a variety of multifamily housing types with less emphasis than the Lowrise 1 zone on ground-related units, while remaining at a scale compatible with single-family structures.

The rezone would encourage a variety of multifamily housing types in an area where less emphasis can be given to ground-related units because of the parcel's orientation to commercial uses and a major arterial with light rail. The intent of the L-2 zone is to allow for additional units, but remain at a scale compatible with single-family structures which would be appropriate in this instance with single-family zoning abutting the north property line. The proposal appears to meet the intended function of the Lowrise 2 zone.

B.Locational Criteria. Lowrise 2 zone designation is most appropriate in areas generally characterized by the following:

1. *Development Characteristics of the Area.*
    a. *Areas that feature a mix of single-family structures and small to medium multifamily structures generally occupying one (1) or two (2) lots, with heights generally less than thirty feet (30);*
    b. *Areas suitable for multifamily development where topographic conditions and the presence of views make it desirable to limit height and building bulk to retain views from within the zone;*
    c *Areas occupied by a substantial amount of multifamily development where factors such as narrow streets, on-street parking congestion, local traffic congestion, lack of alleys and irregular street patterns restrict local access and circulation and make an intermediate intensity of development desirable.*

The larger Rainier Beach Urban Village does have a substantial amount of multifamily development with heights less than 30 feet, single-family and 25 feet for Lowrise 2. The L2 zoning proposed would create an intermediate intensity of development appropriate in the area. The proposal appears to meet locational criterion 1 a.

Criterion 1.b is not applicable in that there are no topographic conditions or views to protect that would make it desirable to limit height and building bulk.

L-2 zoning is appropriate for areas occupied by a substantial amount of multifamily development where factors such as narrow streets, on-street parking congestion, local traffic congestion, lack of alleys and irregular street patterns restrict local access and circulation and make an intermediate intensity of development desirable. There is a substantial amount of multifamily development in the Urban Village and density is designed to grow, therefore, criterion 1.c is met.

2. *Relationship to the Surrounding Area.*
    a. *Properties that are well-suited to multifamily development, but where adjacent single-family areas make a transitional scale of development desirable. It is desirable that there be a well-defined edge such as an arterial, open space, change in block pattern, topographic change or other significant feature providing physical separation from the single-family area. However, this is not a necessary condition where existing moderate scale multifamily structures have already established the scale relationship with abutting single-family areas.*

The proposed property is well-suited for a rezone in its relationship to the surrounding area. A street separates the property from the single-family zone to the south. There is open space to the east, the transmission line property and to the west, the East Duwamish Greenbelt. The north property line does border on a single-family zone still; Single Family to Lowrise 2 is in itself an appropriate transition. There appears to be three well defined edges to this property. Multifamily development resulting from the proposed rezone would establish a transition between single-family and commercial.

b. *Properties that are definable pockets within a more intensive area, where it is desirable to preserve a smaller scale character and mix of densities;*

The property is somewhat of a "definable pocket" due to its location between the transmission lines and the Greenbelt, and the surrounding area is a mix of more intense and less intense zoning.

c. *Properties otherwise suitable for higher density multifamily development but where it is desirable to limit building height and bulk to protect views from uphill areas or from public open spaces and scenic routes;*

There are no height and bulk issues to protect views at this site.

d. *Properties where vehicular access to the area does not require travel on "residential access streets" in less intensive zones.*

Access to the site is via South Trenton Street which intersections into M. L. King Jr. Way. S., a major arterial. Vehicular access does not need to travel past residentially developed properties on neighboring residential streets in order to reach the site.

Summary

The subject parcel does partially meet the functional and locational criteria of a single-family zone. The subject parcel does fully meet the functional and locational criteria of a Lowrise zone.

Based upon the General rezone criteria, the most appropriate designation for this site is L-2 because it would allow for residential development to better meet the comprehensive Plan growth targets, is a good match between zone criteria and area characteristics, supports designations of the Neighborhood Plan and meets zoning principles. The impacts of this contract rezone to the neighborhood are expected to be minimal. New development in the Urban Village anticipates increased density.

After review it appears that the proposed rezone from single-family zoning to lowrise 2 zoning meets function and locational citeria.

RECOMMENDATION - REZONE

The contract rezone from Single family 5000 (SF5000) to Lowrise 2 (L2) is recommended to be approved. A Property Use and Development Agreement (PUDA) will be prepared at the close of the Council action. The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and development of the property.

ANALYSIS – SUBDIVISION

Procedures for Preliminary Plat Approval

Hearing Examiner Findings and Conclusions. The Land Use Code Section 23.76.024 requires that the Hearing Examiner conduct a public hearing on the unit subdivision application. At the same hearing, the Hearing Examiner would hear any appeals of the Director's environmental decision (SMC 23.76.052 A). The Hearing Examiner can give preliminary plat approval if it is determined that the proposed plat makes appropriate provision for the public health; safety and general welfare; open spaces; drainage ways; streets, alleys, other public ways; water supplies; sanitary waste disposal; fire protection; parks; playgrounds; sites for schools and school grounds; and that the public use and interest will be served by the platting of the subdivision. If the Hearing Examiner determines that the proposed plat does not provide the appropriate elements or that the public use and interest will not be served, the proposed plat may be denied. After the hearing, the Hearing Examiner will make a decision that is final on the preliminary subdivision.

Council Action. A formal action to approve the final plat is still the responsibility of the City Council as provided by RCW 58.17. However, the Council does not hold a public hearing for the purpose of accepting testimony. After the Hearing Examiner approves the preliminary plat, the Council reviews it for final plat approval.

Analysis and Recommendation of the Director. The Land Use Code (Section 23.76.023) requires the Director of DPD to prepare a written report for a proposed preliminary plat. The Code calls for the Director's report to include the following:

1. **The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;**
2. **Responses to written comments submitted by interested citizens;**
3. **An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter 23.22;**
4. **All environmental documentation, including any checklist, EIS or DNS; and**
5. **The Director's recommendation to approve, approve with conditions, or deny the application.**

The Director's report is submitted to the Hearing Examiner and made available for public review at least thirty (30) days prior to the Hearing Examiner's public hearing.

Analysis and Recommendation of the Director

1. **The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;**

The following represent a summary of the comments received from each City Agency indicated (SMC 23.22.024). Information and documentation from each review agency is available in the DPD project file.

Seattle Department of Transportation

"Based on the plat drawing received from DPD and the street improvement plan submitted to SDoT Street Use, SDoT recommends approval of the subdivision. The applicant should apply to SDoT for the final plat with $6,000.00 deposit after the Hearing Examiner's decision."

Director of Public Health

The Director of Public Health has reviewed the proposal and submitted the following comments.

"Master Use Permit project number #3006045 at 4204 South Trenton Street has been reviewed against the National Association of County and City Health Officials' Public Health in Land Use Planning & Community Design" and Washington State Department of Ecology's "Environmental Justice: Checklist". Based on that review, the Environmental Health Division of Public Health - Seattle & King County has the following specific comments.

We know that these plans are too early to show trees. However, trees are an important part of the built environment and green infrastructure that positively affect population health in a number of ways. With the growing recognition that global warming leads to "urban heat islands", trees can help ameliorate high ambient temperatures through the shade they provide. Trees are also a critical element of the pedestrian environment because they make a streetscape interesting and comfortable for pedestrians, which are two factors that make walking a desirable form of transportation and recreation. We recommend that trees be both planted and retained because of their linkages to community and environmental health and Seattle's Urban Forest Management Plan.

This project is in the Lake Washington basin. Construction can cause debris and soil to enter the storm drainage system. Additionally, this site has a significant elevation change and great care should be taken to prevent any discharges to the stormwater. Currently, there appears to be a pond on the site and its stormwater function is not clear. Further, the area of impervious surface will increase and the thus the stormwater volumes will peak more rapidly. For all these reasons, please pay attention to grading and adequately sizing stormwater conveyances."

Superintendent of City Light

"City Light has reviewed the Unit Lot Subdivision noted above and requires an easement that is necessary for the electric service to the proposed lots. The easement should become part of the Unit Lot Subdivision and easements added to the appropriate legal description(s).

If this Unit Lot Subdivision is revised in any manner, the current easement may not be appropriate. Any revisions should be submitted to Seattle City Light, for additional review.

Prior to recording, a copy of the final plat should be reviewed by City Light, Real Estate Services for compliance. "

Director of Housing

The Director of Housing has given approval of the preliminary subdivision with no suggested conditions.

Superintendent of Parks and Recreation

The Superintendent of Parks and Recreation has reviewed the preliminary plans and has no comments on the proposed project.

Director of Seattle Public Utilities

Seattle Public Utilities issued a Water Availability Certificate (WAC) ID No. 20090199 on 4/21/09 approving this project with requirements.

"This Certificate is:
Approved; Land Use Permit may be approved at this time. Property owner may order water service after meeting all service requirements. No change to the water distribution system is required.

Approval Comments:
This WAC replaces expired WAC 320071427. This WAC is approved for the existing legal parcels and existing services only. Construction of multiple housing units as shown on plan will require design and installation of about 475 feet of 6" DI water main and one hydrant.

Fire Department

DPD Project #3006045 for 4204 South Trenton Street is approved in accordance with the 2006 Seattle Fire Code with no corrections for the review of a full unit lot subdivision and rezone plans.

Seattle Metropolitan Services

Metro reviewed the proposal and has no comments on the project.

Structural / Ordinance Review (DPD)

The subdivision portion of the project has been reviewed for conformance with the following codes: 2006 Seattle building Code (SBC);2006 Seattle Residential code (SRC); 2006Washington State Energy Code (WSEC); 2006 Ventilation and Indoor Air Quality (VIAQ); Seattle Stormwater, Grading and Drainage Control Code; Environmentally Critical Areas Regulations (ECA).

This proposed unit lot subdivision was reviewed for potential conflicts with the building code with the understanding that the unit lot subdivision does not create separate developable parcels. The building code review assumes no internal property lines exist. Instead, the project is reviewed as if it is a single development parcel for building code issues. Imaginary property lines per Seattle Building Code (SBC) section 503.1.3 are assumed to be located between structures (both existing, if applicable and proposed) as necessary to insure the required opening protection and fire resistive construction of the exterior walls.

However, where a unit lot property line is created at or near the face of a building, an access and maintenance easement of three (3) feet minimum, five (5) feet preferable, is required. This easement is to allow for emergency egress from rooms adjacent to the unit lot property line across the adjoining unit lot(s) and for maintenance of the exterior of the building, so it is not

required where there are common walls between structures. Also if a yard is created (with unit lot lines) that has no access to a public right-of-way or access easement, an easement must be defined to allow the inhabitant of the unit which abuts this "landlocked" yard access to the public right-of-way. This easement will be either a pedestrian access easement or an emergency egress easement, depending upon the nature of the access to the yard from within the unit. If the yard is greater than 50 feet deep, no easement will be required.

Drainage Review (DPD)

The drainage reviewer has approved the preliminary plat.

2. **Responses to written comments submitted by interested citizens.**

No comments were received during the official comment period.

3. **An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter 23.22 .**

Land Use Code

The site is located in a Single Family 5000 zone (SF 5000) and has applied for a contract rezone to rezone the property to Lowrise 2 zoning (L2) in which townhomes and single family structures are both permitted uses outright.

SMC 23.22.062 provides requirements for unit lot subdivisions, applicable to townhouse and single family development.

SMC 23.22.062.B states: "The development as a whole shall meet development standards applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards based on analysis of the individual unit lot..." Consequently additional development of individual units may be limited, due to this final nonconformity. The development proposal is only allowable if the proposed rezone is granted by City Council. The applicant has requested that the development proposal, rezone and full unit lot subdivision be considered as one application. This would be consistent with the intent of RCW 58.17.070 "Unless an applicant for preliminary plat approval requests otherwise, a preliminary plat shall be processed simultaneously with applications for rezones ... and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing." The Director recommends that preliminary plat approval should be conditionally granted by the Hearing Examiner, subject to Council approval of the proposed rezone prior to recording of the final plat.

To notify future unit lot owners of this potential limitation SMC 23.22.062 F therefore requires the following be noted on the recorded plat, "*the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot.*"

SMC 23.22.062 B also states that required private usable open space for each dwelling unit is provided on the same lot as the dwelling unit it serves. The open space requirements for Lowrise 2 zones requires an average of 300 square feet of private usable open space at ground level and directly accessible to each unit, with no unit having less than 200 square feet of such open space.

SMC 23.22.062 D requires common access easements and joint use and maintenance agreements for the use of common garage or parking areas, common open space and other similar features. Easements for all utilities are required as necessary for utility access. This proposal provides such easements and joint use and maintenance agreements for vehicular and pedestrian access, and utilities across all individual unit lots that will be recorded with the King County Department of Records and Elections. Additionally, easements should be shown by the applicant allowing all lots within the subdivision to have their addresses displayed. These easements shall also make provision for US Post Office mailbox locations.

This Unit Lot Subdivision therefore as conditionally recommended below will meet the requirements of the Seattle Land Use Code.

Public Use and Interest

Pursuant to SMC 23.22.054, the decision maker must consider all relevant facts to determine whether the public use and interest will be served by the proposed full unit lot subdivision. Additionally, the proposed plat must make appropriate provision for the public health, safety and general welfare by providing for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary waste disposal, fire protection, parks, playgrounds, and safe access to and sites for schools.

Unit Lot Subdivision allows for the subdivision of common wall (attached) ground related townhouse structures. Ground related multi-family townhouse use is allowed outright in the L2 zone. This process therefore makes possible separate ownership of individual units in one structure that otherwise would be owned by one party and might otherwise be available on a rental only basis or as condominium units.

The applicant will provide CC&Rs (Covenants, Conditions, & Restrictions) for the future owners of each unit lot upon transfer of sale. The CC&Rs will include specific provisions for maintenance and repair of the site including but not limited to structures and utilities. The Department feels that this should be noted as a recommended condition for the project for future notice to affected parties.

The construction of the units was reviewed under the City's applicable codes (SEPA, zoning, ordinance and structural, drainage, fire code, geotechnical, water availability, street improvements). The unit lot subdivision does not alter these requirements or conditions.

The public use and interests are thereby served by permitting the proposed division of land.

4. All environmental documentation, including any checklist, EIS or DNS; and

All relevant environmental documents will be furnished to the Hearing Examiner, prior to the Public Hearing for the subdivision.

5. **The Director's recommendation to approve, approve with conditions, or deny the application.**

RECOMMENDATION – SUBDIVISION

DPD Recommends approval of the preliminary subdivision application.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist prepared on April 19, 2007 and supplemental information in the project file submitted by the applicant. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects forms the basis for this analysis and decision. Review is limited to issues pertinent to steep slope ECA impacts and mitigation.

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 or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

Temporary or construction-related impacts are expected. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794). City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Building Code (construction measures in general) and 2) Stormwater, Drainage and Grading Code (temporary soil erosion). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts.

Earth / Soils

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. Pursuant to this requirement the applicant submitted a geotechnical engineering study. The study has been reviewed and approved by DPD's geotechnical experts, who will require what is needed for the proposed work to proceed without undue risk to the property or to adjacent properties, and ensure that the proposal complies with the Stormwater, Grading and Drainage Control Code. Further review of the proposal will be conducted during the construction permit review. No additional conditioning is warranted pursuant to SEPA policies.

Construction Impacts

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, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Long-term Impacts

The long-term impacts are expected to me very minimal due to the restoration of native plants. Any long term impacts will be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (storm water runoff). The other impacts not noted here as mitigated by codes or conditions are not sufficiently adverse to warrant further mitigation by condition.

Operational activities, primarily vehicular trips associated with the project and the projects' 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, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

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.

[X] 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 43.21C.030 (2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (C).

RECOMMENDED CONDITIONS - REZONE

For the Life of the Project

1. The rezone is conditioned on performance or compliance with the terms and conditions of the Property Use and Development Agreement (PUDA).

2. The contract rezone shall be valid until at least 7 years after final plat recording provided that street improvements are completed or bonded for completion within required timeframes.

3. No residential units or unit lots should be separately sold from any other residential unit or unit lot prior to the rezone considered to be permanent.

4. The rezone shall be considered permanent once Phase 1-A residential construction is completed, all street dedications have been accepted by the City Council, 42nd Ave S street improvements are completed or fully bonded for completion, and S. Trenton St street improvements have been completed.

RECOMMENDED CONDITIONS - SEPA

Prior to Issuance of any Demolition Permit

5. The owner or developer of the proposed project shall file a Notice of Intent with the PSCAA prior to beginning any demolition work on the site.

RECOMMENDED CONDITIONS – SUBDIVISION

Conditions of Approval Prior to Recording of the Final Subdivision Plat:

The owner(s) and/or responsible party(s) shall:

6. The final plat shall not be recorded prior to both City Council approval of the proposed rezone and recording of any required Property, Use and Development Agreement.

7. Pursuant to SMC 23.22.062 F the following must be noted on the recorded plat: "*the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot.*" The legal description of the parent lot must be specifically labeled as the Parent Lot on the plat.

8. Include a new or altered sheet in the final plat that shows all unit lots on a single sheet. Identify on the plat those 20 unit lots that are part of Phase 1-A development.

9. The final plat must include the required City Light easement and be reviewed by City Light, Real Estate Services prior to recording in order to ensure the proper easements are either part of the plat or recorded separately.

10. Provide easements on appropriate unit lots abutting the streets to allow for the proper display of address signage along the street margin for all unit lots that do not have street frontage. The easements to allow for posting of address signage should be adjacent to the point of access to each unit lot.

11. Provide emergency egress easements where proposed lot lines are adjacent to buildings. See Unit Lots I, J, M, N, O, and P on sheet 8 and Unit Lots B, C, D, E, U, T, S, and R-1 on sheet 21. The emergency egress easements should be a minimum of 36 inches wide, shown on the plans, and included in the legal description.

12. Add a condition to the face of the plat that states that no residential units or unit lots shall be separately sold from any other residential unit or unit lot before Phase 1-A residential construction is completed, all street dedications have been accepted by the City Council, 42nd Ave S street improvements are completed or fully bonded for completion, and S. Trenton St street improvements have been completed.

Signature: (signature on file) Date: July 29, 2010
Holly J. Godard, Land Use Planner
Department of Planning and Development

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- Public Corporations

City of Seattle Hearing Examiner Decision

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FINDINGS AND DECISION OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Application of STEVE RAUF FOR OTHELLO PARTNERS for preliminary plat approval

Hearing Examiner File: MUP-10-013
Associated File Numbers:
Department Reference Numbers: 3006045
Date: September 24, 2010
Type: Subdivision
Examiner: Anne Watanabe

Introduction

The applicant proposes a unit lot subdivision of ten existing parcels, creating 67 unit lots. (The applican also seeks a contract rezone of the same development site, addressed in a separate recommendation.) T Director, Department of Planning and Development, recommended approval of the unit lot preliminary subdivision. A public hearing on the subdivision application was held on August 31, 2010, before the undersigned Deputy Hearing Examiner. Represented at the hearing were the Director, Department of Planning and Development (DPD), by Holly Godard, Land Use Planner, and the applicant, by John C. McCullough and Jessica Clawson, attorneys at law. The record was left open until September 22, 2010, t receive additional information from the parties concerning traffic and phasing of the project.

After due consideration of the evidence elicited during the hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this application.

Findings of Fact

Site and vicinity

1. The subject site is addressed as 4204 South Trenton Street, and is located at the northeast corner of Avenue South and South Trenton Street. The site is bounded by the extension of 42nd Avenue South to t west, Martin Luther King Jr. Way South and the City Transmission line right of way to the east, South Tre Street to the south, and private property to the north.

2. The site zoned Single Family 5000 (SF 5000), and is within the Rainier Beach Residential Urban Village

3. The site is located one block north of the Rainier Beach (Henderson) Link Light Rail Station. The surrounding development consists primarily of single family residences, with a retail development a bloc southwest of the site, and other retail development along Martin Luther King Jr. Way South. Across Soutl Trenton Street from the site is a parcel, approximately 55,832 square feet, which is owned by the Centra Puget Sound Regional Transit Authority.

4, The City Light Transmission Lines border the site on the east, and MLK Jr. Way South shares the 200-f wide transmission line right-of-way. Across 42nd Avenue South west of the site is the East Duwamish Greenbelt, a large greenbelt park. The Chief Seattle Trail is located east of the subject site.

5. The site consists of ten tax parcels which are zoned Single Family 5000 (SF 5000). The property is approximately 110,000 square feet in size. There are no wetlands or streams on the site. The site has sl ranging from 2 to 20 percent, with a small area of slopes ranging from 50-80 percent; some of the slope areas are the result of past activities that involved placing fill on the site, and excavation of the site. Vegetation at the site consists primarily of grasses and shrubs.

6. A geotechnical study examined the surface and subsurface conditions at the site and provided recommendations for site preparation and improvements in preparation for future construction. Ex. 13B

7. The site is served by the Henderson Light Rail station, which is a block away. Metro transit also has several routes serving nearby areas.

Proposal

8. The proposed preliminary plat would create 67 unit lots from 10 parcels, within 31 structures. The development project would include parking for 95 vehicles (33 surface stalls, 37 in below-grade garages and 25 stalls within 9 structures). The townhouses would be two stories high, and constructed in blocks two to four. An internal path would be included to get to the east side of the property, where the Chief Sealth Trail/Seattle Transmission Lines pass. Full street improvements along South Trenton Street and 4: Avenue South are also proposed, along with street dedications as required. Approximately 27 additional street parking spaces may be available after the widening of South Trenton Street and 42nd Avenue Sou are completed as part of the street improvements. Landscaping will be provided, including trees along tl internal street; Ex. 9.

9. A traffic and parking analysis of the proposal was prepared by the applicant"s consultant, Heffron Transportation, Inc. The study concluded that the project would not adversely affect any streets or intersections in the site vicinity. The study also determined that the project"s peak parking demands wo be accommodated by the parking provided on-site, as well as on- street parking that would be created b street improvements.

10. The applicant is also seeking a contract rezone of the site from SF 5000 to L2, which is required in o for the proposed development and subdivision to comply with the Code. The applicant proposes to cons the development in three phases.The initial phase would include 20 residential units in the southeasterl portion of the site along with street improvements along South Trenton Street. After completion of the fi phase and sale of units, the second phase would take place, which would include 24 units in the northeasterly portion of the site. The third phase would create 23 units on the westerly portion of the si including required street improvements to 42nd Avenue South and the intersection of 42nd Avenue Sou and South Trenton Street.

11. Because of the differing time frames for rezones and subdivision, the Director has recommended th the preliminary plat be conditionally approved subject to Council approval of the proposed rezone prior the recording of the final plat. The Director notes that it is important that the zoning not revert to SF 50 once any of the unit lots is individually sold, as that would result in separate property owners owning un lots that were part of a non-conforming parent lot. To prevent this, the Director recommends that no un lots be separately sold from any other unit lot prior to completion of proposed first phase of constructio

12. The Washington State legislature amended Chapter 58.17 RCW earlier this year so as to allow applic 7 years to file a final plat after receiving preliminary plat approval. The amendment also provides that th subdivision is to be governed by the "terms of approval and regulations in effect at the time of" the final approval for 7 years after that approval. Exhibit 10P. The Director has therefore recommended that the contract rezone be valid for at least 7 years after final plat recording.

Agency review

13. Pursuant to SMC 23.22.024, City and county agencies have reviewed the proposed preliminary plat.

14. DPD reviewed the proposal for conformance with the building code, residential code, energy code, ventilation and indoor air quality code; stormwater, grading and drainage control code; and environmen critical areas regulations. The review noted that a three-foot minimum access and maintenance easemen would be required where the unit lot property line was located at or near the face of a building.

15. DPD"s drainage reviewer approved the proposed plat.

16. The Seattle Department of Transportation (SDOT) reviewed the application and street improvement p and recommends approval of the preliminary plat.

17. The Seattle-King County Public Health Department reviewed the proposal and offered general comm on the importance of tree retention and replanting, and the need to control runoff from construction activities and from new impervious surfaces.

18. Seattle Public Utilities (SPU) has reviewed the application. SPU issued Water Availability Certificate ID 20090199 for the project on April 21, 2009. The certificate approval noted that design and installation c 475 feet of 6-inch DI watermain and one hydrant would be required to support the planned developmen However, SPU has confirmed that since the project will use 6 water meters in place of the SPU water mai private property, the 475 feet of main and the hydrant are not required.

19. The Superintendent of City Light has reviewed the application and notes that an easement is necessa for electric service to the lots and should be added prior to recording; the final plat must be reviewed by Light.

20. The Fire Department recommends approval of the proposed plat.

21. The Director of Housing recommends approval.

22. The Superintendent of Parks and Recreation reviewed the proposal and had no comments.

23. King County Metro reviewed the proposal and had no comments.

24. No public comments were submitted to DPD or to the Hearing Examiner on this proposal.

DPD recommendation

25. The Director reviewed the preliminary plat application, along with the proposed rezone, and recommended conditional approval of both applications. DPD also issued a SEPA Determination of Non-significance, which was not appealed.

Codes

26. SMC 23.22.054 provides that: *"The Hearing Examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The Hearing Examiner sh consider all relevant facts to determine whether the public interest will be served by the subdivision and dedication, and if it finds that the proposed plat makes appropriate provision for the public health, safe and general welfare and for open spaces, drainage ways, streets, alleys, other public ways, transit stops potable water supplies, sanitary wastes, fire protection facilities, parks, playgrounds, sites for school an schoolgrounds, sidewalks and other planning features that assure safe walking conditions for students walk to and from school, is designed to maximize the retention of existing trees, and that the public use interest will be served by the platting of subdivision, then it shall be approved. If the Hearing Examiner f that the proposed plat does not provide the appropriate elements or that the public use and interest will be served, then the Hearing Examiner may disapprove the proposed plat. Dedication of land to any publ body may be required as a condition of subdivision approval and shall be clearly shown on the final plat Hearing Examiner shall not as a condition to the approval of any plat require a release from damages tc procured from other property owners."* 27. SMC 23.22.062 sets forth the standards for a unit lot subdivision. *"A. The provisions of this section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, and cluster development for housing, as permitted in Single Family, Residential Small Lot and Lowrise zones, and for single-family dwelling units in Lowrise zones, o combination of the above types of residential development, as permitted in the applicable zones. B. Exce for any site for which a permit has been issued pursuant to Section 23.44.041 for a detached accessory dwelling unit, sites developed or proposed to be developed with dwelling units listed in subsection A abov may be subdivided into individual unit lots. The development as a whole shall meet development standar applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards based on ana of the individual unit lot, except that any private, usable open space for each dwelling unit shall be prov on the same lot as the dwelling unit it serves. C. Subsequent platting actions, additions or modifications the structure(s) may not create or increase any nonconformity of the parent lot. D. Access easements an joint use and maintenance agreements shall be executed for use of common garage or parking areas,*

common open space (such as common courtyard open spaces for cottage housing), and other similar features, as recorded with the Director of the King County Department of Records and Elections. E. Withi the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot w the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the Director of the King County Department of Records and Elections. F. The fact that the lot is not a separate buildable lot and that additional development of the individual unit lots may be limi as a result of the application of development standards to the parent lot shall be noted on the plat, as recorded with the King County Department of Records and Elections. "

Conclusions

1. The Hearing Examiner has jurisdiction over this application pursuant to Chapters 23.76 and 23.22 SM

2. The proposed preliminary plat as conditioned will serve the public use and interest, and the proposal makes appropriate provisions for the elements listed in SMC 23.22.054. The development as a whole wc meet the applicable development standardsof the underlying zone (subject to the grant of the rezone) ai otherwise meets the requirements for a unit lot subdivision under SMC 23.22.062.

3. As conditioned, the proposal meets the applicable criteria and should be approved.

Decision

The application for the preliminary plat is hereby APPROVED, subject to the following conditions:

Before Recording of the Final Plat: 1. "The final plat shall not be recorded prior to both City Council appr of the proposed rezone (Clerk File 308906) and the recording of any required Property Use and Developi Agreement.

2. Pursuant to SMC 23.22.062.F, the following must be noted on the recorded plat: "The unit lots are no separate buildable lots and additional development of the individual unit lots may be limited as a result the application of development standards to the parent lot." The legal description of the parent lot must specifically labeled as the Parent Lot on the plan.

3. Include a sheet in the final plat that shows all unit lots on a single sheet. Identify on the plat those 20 lots that will be constructed first.

4. The final plat must include the required City Light easement and be reviewed by City Light, Real Estat Services prior to recording in order to ensure the property easements are either part of the plat or recor separately.

5. Provide easements on appropriate unit lots abutting the streets to allow for the property display of address signage along the street margin for all unit lots that do not have street frontage. The easements allow for posting of address signage should be adjacent to the point of access to each unit lot.

6. Provide emergency egress easements where proposed lot lines are adjacent to buildings. See Unit Lot: M, N, O, and P on sheet 8 and Unit Lots B,C,D,E,U,T,S, and R-1 on sheet 21. The emergency egress easements should be a minimum of 36 inches wide, shown on the plans, and included in the legal description.

7. Covenants, Conditions and Restrictions (CC&Rs) will be provided to future owners of each unit lot upo transfer of sale. The CC&Rs will include specific provisions for maintenance and repair of the site, includ but not limited to, structures andutilities.

8. Include Exhibit A ("Phasing of Improvements") as a sheet in the plat. Add a condition to the face of the plat stating: "" ""Upon completion of Phase 1-A (the "South Trenton Street Improvements"), unit lots locat in Phases 1-C,1-D, and 1-E, as shown on Exhibit A, may be sold as unit lots, and completed buildings ma issued final building approval upon inspection by the City of Seattle.

Upon completion of both Phase 1-A and Phase 1-B (including the utility mains located in Phase 1-B), any lot in the Plat may be sold, and completed buildings may be issued final building approval upon inspecti by the City of Seattle.

Upon completion of Phase 2-A (the "42nd Avenue Street Improvements"), unit lots located in Phase 2-B m be sold as unit lots, and completed buildings may be issued final building approval upon inspection by t City of Seattle. "

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- Seattle Hearing Examiner
- Business Tax Rules
- Taxicab and For-Hire Vehicles
- Public Corporations

City of Seattle Hearing Examiner Decision

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

In the Matter of the Application of STEVE RAUF/OTHELLO PARTNERS for a contract rezone of property addressed as 4204 South Trenton Street

Hearing Examiner File: CF 308906
Associated File Numbers:
Department Reference Numbers: 3006045
Date: September 24, 2010
Type: Council Land Use Actions
Examiner: Anne Watanabe

Introduction

The applicant, Steve Rauf for Othello Partners, seeks a contract rezone from Single Family 5000 to Lowri

The public hearing on this application and on a proposed preliminary plat was held on August 31, 2010, before the undersigned Deputy Hearing Examiner. The Director"s SEPA determination on the proposal w not appealed. Represented at the hearingwere the Director, Department of Planning and Development (D by Holly Godard, Land Use Planner and Jerry Suder, Senior Land Use Planner; and the applicant, Steve Ra by John McCullough and Jessica Clawson, attorneys at law. The Examiner viewed the site on August 31, 2010. The record was held open through September 21, 2010, allow the parties to respond to questions raised by the Examiner at hearing about the recommended conditions of approval, and to respond to a comment letter regarding traffic along 42nd Avenue South. The parties provided additional information September 21, 2010, which was added to the record, and the record was closed at that time.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code ("SMC" or "Code"), as amended, unless otherwise indicated. After due consideration of the evidence elicited during hearing, the following shall constitute the findings of fact, conclusions and recommendation of the Hear Examiner on this application.

Findings of Fact

Site and Vicinity

1. The rezone site is addressed as 4204 South Trenton Street, and is located at the northeast corner of 4 Avenue South and South Trenton Street. The site is bounded by the extension of 42nd Avenue South to t west, Martin Luther King Jr. Way South and the City Transmission lines to the east, South Trenton Street the south, and private property to the north. Exhibit 14F.

2. The site is approximately 110,000 square feet in size and has been developed in the past with a singl family house and a garage and foundation for another structure. There are no wetlands or streams on th site. The site has slopes ranging from 2 to 20 percent, with a small area of slopes ranging from 50-80 percent; some of the sloped areas are the result of past activities that involved placing fill on the site, an excavation of the site. Vegetation at the site consists primarily of grasses and shrubs.

3. The site is located one block north of the Rainier Beach (Henderson) Link Light Rail Station. The surrounding development consists primarily of single family residences, with a retail development a bloc southwest of the site, and other retail development along Martin Luther King Jr. Way South. Across Sout Trenton Street from the site is a parcel, approximately 55,832 square feet, which is owned by the Centra Puget Sound Regional Transit Authority.

4. The site is well-served by transit, as it is a block away from the light rail station, and Metro transit als serves the area near the station.

5. Open spaces in the area include the 200-foot wide right-of- way to the east which is shared by the Cit Transmission Lines and MLK Jr. Way South. Across 42nd Avenue South west of the site is the East Duwan Greenbelt, a large greenbelt park. The Chief Seattle Trail is located east of the site.

Zoning and Comprehensive Plan designation

6. The site to be rezoned is consists of ten tax parcels which would be subdivided into 67 unit lots unde applicant"s preliminary plat application. The site is zoned Single Family 5000 and is within the boundari the Rainier Beach Residential Urban Village. Zoning in the vicinity includes a large area of L1 zoning wes across 42nd Avenue South, SF 5000 north and south of South Trenton Street, and NC3P-40 to the south

7. The adopted Rainier Beach Neighborhood Plan includes several policies which apply to the rezoning o this site:

"RB-P4 provides that "within the residential urban village west of Martin Luther King Boulevard S., permit consideration of rezones of single- family zoned land to the Lowrise Duplex Triplex (LDT), Lowrise 1 (L1) Lowrise 2 (L2) designations." " "RB-P1 Encourage the revitalization of the Henderson Street corridor as a conduit between the future light rail station at Martin Luther King, Jr. Way and the commercial center alo Rainier Avenue South. " "RB-P2 Seek to promote transit-oriented development around Rainier Beach"s proposed light rail station at Martin Luther King, Jr. Way and South Henderson Street. " "RB-P5 Encourage City to support rezones within the Rainier Beach Residential Urban Village for projects that: A. "Meet the overall community vision, B. Promote redevelopment of underutilized and derelict sites, and C. Result in pedestrian-friendly, well-designed new buildings.

8. The site was part of the 1907 Rainier Beach annexation into the City of Seattle. It was designated as R 5000, Single Family 5000, in 1957, and designated as Single Family 5000 in 1982.

9. The Comprehensive Plan sets a growth target for the Rainier Beach Residential Urban Village of 600 additional households by the year 2024, and an increase in households per acre from the current 5 households to 8 households.

10. SMC 23.34.010.B was amended in 2009 to include language that applies to the site, allowing areas t rezoned from single family to more intense zones even if the area meets the criteria for single family zo provided the area is within the residential urban village "west of Martin Luther King Junior Way South in t adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise Duplex/Triplex (LDT), Lowrise (L1) or Lowrise 2 (L2) zone." The site is within this area.

Proposal

11. The proposal is to rezone the site from SF 5000 to L2, in order to allow future construction of 67 residential units within 31 structures. Parking for 95 vehicles is proposed in surface parking areas, belov grade garages, and within several structures. The townhouses would be two stories high, and constructe blocks of two to four. An internal path would be included to get to the east side of the property, where t Chief Sealth Trail/Seattle Transmission Lines pass. Full street improvements along South Trenton Street 42nd Avenue South are also proposed, along with street dedications as required. Approximately 27 additional on-street parking spaces may be available after the widening of South Trenton Street and 42n Avenue South are completed as part of the street improvements.

12. The applicant is also applying for preliminary plat approval for a unit lot subdivision to allow fee sim sales of the dwelling units. The applicant proposes to construct the development and required street improvements in three phases. The initial phase would include 20 units in the southeasterly portion of tl site along with street improvements along South Trenton Street. After completion of the first phase and of units, the second phase would take place, which would include 24 units in the northeasterly portion o

site. The third phase involves 23 units on the westerly portion of the site, including required street improvements to 42nd Avenue South and the intersection of 42nd Avenue South and South Trenton Stre

13. A traffic and parking analysis of the proposal was prepared by the applicant"s consultant, Heffron Transportation, Inc. The analysis was based on a proposal for 72 residential units. The analysis was also developed prior to the operation of the Henderson light rail station, but took the light rail operations, e. turning restrictions caused by the line, into account in determining impacts on the roadway network. Ex. 13A; Ex. 16 (September 13, 2010, letter from Heffron Transportation, Inc.) The analysis showed that the proposed development would generate 300 daily vehicle trips, including 24 AM peak hour trips, and 38 peak hour trips. The study concluded that the project would not adversely affect any streets or intersecti in the site vicinity. The study also determined that the parking demand generated by the project would b accommodated by the parking spaces provided on-site, as well as the new on-street parking that would l created by the project"s street improvements.

Public comments

14. DPD received no written comments on the proposal. No public testimony was offered at the hearing. comment letter on the proposal was sent to the Hearing Examiner concerning the impacts of increased traffic on queuing along 42nd Avenue South.

DPD Review

15. The Director reviewed the proposed contract rezone pursuant to SEPA, and issued a Determination o Nonsignificance. The Director"s SEPA decision was not appealed.

16. DPD has reviewed the applicant"s phasing plans and supports phased development in order to minin impacts to the community by completing street improvements at the time the adjacent residences are constructed, rather than having all infrastructure constructed prior to future construction. As noted abo the applicant has also applied for a unit lot subdivision of the site, and has proposed a phased developn plan under the plat application, to facilitate financing of the later phases of development.

17. The Washington State Legislature earlier this year amended the state subdivision law (Exhibit 10P), setting a 7-year time limit for submittal of a final plat following approval of the preliminary plat. The legislation also provides that the finalapproved subdivision is governed by the terms of approval and regulations in effect at the time of approval, for 7 years.

18. SMC 23.76.060.B.1 provide that a contract rezone will expire two years from the effective date of approval, unless within the two-year period, an application is filed for a master use permit, or the City Council designates another time for expiration. The Director recommends that the contract rezone be va for at least seven years after final plat recording, to prevent reversion of the rezone pending the comple of the development, and to grant the applicant the time allowed by statute to complete the final plat process. If the zoning were to revert to SF 5000 after any of the unit lots were sold, the "parent lot" for t unit lots would become nonconforming, and would be out of compliance with the subdivision law requirements.

19. The Director"s staff report at page 22-23 included recommended conditions for the rezone to ensure that the rezone did not lapse prior to seven years following the final plat recording. Revised language wa submitted by the Director and the applicant as shown in Exhibit 16. The revised language clarifies the actions that must be accomplished as a condition of the rezone approval. Exhibit 16 includes a sheet entitled "Phasing of Improvements" which identifies Phase 1A as the South Trenton street improvements Phase 2A as the 42nd Avenue South street improvements, Phase 1B as the private internal driveway, and Phases 1-C, 1-D and 1-E, and 2-B as the unit lots and other improvements in the areas of the site indicat

Codes

20. SMC 23.34.004 addresses the use of contract rezones, and authorizes the Council to approve a map amendment *"subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and developmen the property in order to ameliorate adverse impacts that could occur from unrestricted use and develop permitted by development regulations otherwise applicable after the rezone."*

21. SMC 23.34.007 provides that "*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 provisio* The section also statesthat "*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 criterio*

22. SMC 23.34.008 states the general rezone criteria. The criteria address the zoned capacity and densit 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, boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; and the presence of overlay districts or critical areas.

"Conclusions

"1. The Hearing Examiner has jurisdiction to make a recommendation on the proposed contract rezone to City Council, pursuant to SMC 23.76.052.

2. Under SMC 23.34.007, the rezone provisions are to be weighed and balanced to determine the appropriate zone designation, and none of the criteria are to be applied as absolute requirements.

General rezone criteria

3. Effect on zoned capacity. The first general criterion under SMC 23.34.008 is the effect on the zoned capacity for the urban village. For residential urban villages taken as a whole, the zoned capacity shall n less than the densities established in the Urban Village Element of the Comprehensive Plan. The site is w the Rainier Beach Residential Urban Village, which has a growth target of 8 households per acre by 2024 increase of 600 additional households. The proposed rezone would allow the creation of 67 units of new housing, helping to achieve the growth target for residential density in the village.

4. Match between zone criteria and area characteristics. Under this criterion, the most appropriate zone designation is that for which the provisions for designation of the zone type and the locational criteria f the specific zone match the characteristics of the area to be rezoned better than any other zone designa

5. As noted in the Director"s analysis and report at pages 11-15, the site does not closely match the fun and locational criteria of SMC 23.34.011. The site and the area include a mixture of lot sizes, including t large lots exceeding one acre, so that the existing pattern does not resemble the development pattern a characteristics of single family neighborhoods (SMC 23.34.011.A). The site has been designated by the adopted neighborhood plan as appropriate for multifamily zoning, in contrast to criterion SMC 23.34.011.B.2.

6. SMC 23.34.018 describes the function and characteristics of the L2 zone. Consistent with the L2 func the proposed contract rezone would encourage a variety of multifamily housing types in an area where l emphasis may be given to ground-related units, on account of the site"s proximity to the light rail statio major arterial, and commercial uses. The Rainier Beach Residential Urban Village has a mix of single-fam and small-to- medium multifamily structures that are at heights generally less than 30 feet (less than 25 in L2), a characteristic consistent with the L2 zone. There is a substantial amount of multifamily development in the Rainier Beach Urban Village, consistent with L2 characteristics. The site has well-defi edges, i.e., the East Duwamish Greenbelt, the City Transmission Lines, MLK Jr. Way south, and South Tre Street, separating the proposed L2 zone from single family zones. There would be no physical feature to separate the site"s north side from the adjacent single family zone to the north.

7. The property is not exactly a "definable pocket" that is "within more intensive area," as it is a vacant si within an area zoned to various uses and intensities. However, the site is well-defined by physical separa as noted above, and wouldprovide some transition between the single family and commercial zones in t area.

8. The protection of views from uphill areas, or from public open space or scenic routes, is not a limiting factor for building height and bulk at this location.

9. Access to the site would be from South Trenton Street, which connects to MLK Jr. Way South, a major arterial. Access through neighboring residential streets is not required to reach this location.

10. The site would meet the L2 function and locational criteria and is a better match with those criteria t the SF 5000 criteria.

11. Zoning history and precedential effect. The site has been zoned SF 5000 since 1982, and has been zoned for single family residential use for decades prior to that time. There may be a precedential effect this rezone is approved, if otherproperties which are also identified in the Neighborhood Plan as approp for rezone to Lowrise 1 or 2, particularly those SF 5000 properties within close proximity to the light rail station, seek rezones to allow higher residential density.

12. Neighborhood plans. The adopted Rainier Beach Residential Urban Village neighborhood plan specifi addresses the area within which the site is located. The plan"s policies permit rezones of single-family z sites to LDT, L1 and L2, and encourage transit-oriented development near the Rainier Beach light rail sta

13. Zoning principles. The general zoning principles to be considered here include the impacts of more intensive zones on less intensive zones, the presence of physical buffers, and zone boundaries. The stre and City Transmission lines which border the south, west and east sides of the site will provide transitio and physical buffers between the site and other properties. Although the north side of the site would be adjacent to the SF 5000 zone, Code-required setbacks from the property line, and the L2 height limits (2 feet with a 10-foot sloped roof bonus) would be compatible with SF 5000 development. It is also possibl that the design of the future development could provide additional transition between the L2 and SF 50C zone, although that would need to be determined during development review. The proposed L2 zoning boundary would follow platted lot lines on the north and east, and run through 42nd Avenue South and South Trenton Street on the west and south boundaries.

14. Impact evaluation. Under SMC 23.34.008.F, the possible positive and negative impacts of a propose rezone are to be considered. The proposal would provide additional housing, although it is not propose be low- income housing. The demands for public services, including, water, sewer, storm drainage, electricity, and fire protection, can be met at this site.

15. As to environmental factors, the Director"s SEPA review and decision were not appealed. The propos rezone would have no significant adverse impacts on the environment. Impacts related to noise, air and water quality, glare, odor, shadows,energy demand, flora and fauna were not shown to be factors affecti the proposed rezone.

16. Pedestrian safety. Pedestrian safety has been considered as part of the required street improvement including the addition of sidewalks, curbs and gutters, along South Trenton Street and 42nd Avenue Sou for the associated subdivision.

17. Manufacturing and employment activity. No manufacturing or employment activities are anticipated part of the proposal, although the proposal would create housing near the light rail station and commer areas in the vicinity.

18. Character of areas with architectural or historic value. No areas recognized for architectural or histor value would be affected by the proposal.

19. Shoreline view, public access and recreation. The proposal is not located in a shoreline area.

20. Service capacities. This criterion considers whether there are adequate services in the area, includin street access, street capacity, transit, parking, utility and sewer, and shoreline navigation. Street access capacity are adequate to serve the rezone, and additional street improvements, including widening of 4 Avenue South and South Trenton Streets, and pedestrian improvements will be required as part of the subdivision. The proposal would provide sufficient off-site parking to meet the demands generated by t proposal, and the site is served by light rail and Metro transit. Utility and sewer capacity have been revie by Seattle Public Utilities and will be adequate to serve anticipated new development at the site.

21. Changed circumstances. In 2009, SMC 23.34.010 was amended to identify the residential urban villa west of MLK Jr. Way South as an area that could be considered for rezoning from SF 5000 to LDT, L1 or L The proposed rezone would be consistent with this Code language.

22. Overlay districts. The site is not within an overlay district.

23. Critical areas. There is a sloped area at the northwest corner of the site, for which DPD has granted a exemption from ECA steep slope development standards. Steep slope areas are located west of the site a would not be affected by the rezoneproposal No other critical areas have been identified on the site.

24. In addition to the contract rezone, the applicant is proposing a unit lot subdivision which would be constructed and sold in phases. The Director supports the phased development approach, but recomme conditions that will ensure completion of the necessary street improvements. The Director initially recommended a condition that the rezone "be considered permanent" after completion of the initial pha: residential construction, acceptance of street dedications by City Council, completion of South Trenton Street improvements, and completion of or bonding for 42nd Avenue South improvements.

25. The Director and the applicant provided certain revisions to the Director"s recommended rezone conditions. Exhibit 16. The revised conditions include "Exhibit A" as a sheet in the proposed preliminary which shows the phasing of improvements.

26. The proposed rezone appears to match the criteria for a rezone, and is consistent with the adopted Neighborhood Plan for this area. The rezone should be approved with conditions as set forth below.

Recommendation

The Hearing Examiner recommends APPROVAL of the requested contract rezone with the following conditions:

Recommended conditions - SEPA:

Prior to issuance of any demolition permit:

The owner or developer of the proposed project shall file a notice of intent with the Puget Sound Clean A Agency prior to beginning any demolition work on the site.

Recommended conditions - rezone

The rezone is conditioned on performance or compliance with the terms and conditions of the Property and Development Agreement, which shall reflect the following:

1. "The contract rezone shall be valid for at least seven (7) years after final plat recording, provided that street improvements are completed or bonded for completion within required timeframes. 2. The "Phase 1-A" improvements must be fully constructed (see "Exhibit A" to Ex. 16) All required street dedications m be accepted by the City Council. Phases 2-A and 1-B must be either fully completed or bonded for completion. 3. Upon completion of the above improvements, the rezone of the entire site to L2 will be considered to be permanent and the applicant shall be entitled to construct the proposed 67 units. The proposed 67 units may be sold as unit lots, following recording of a unit lot subdivision, or the propose units may be sold as condominiums.

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