



# Seattle City Council

## Central Staff - Memorandum

**Date:** April 27, 2013

**To:** Planning, Land Use and Zoning Committee

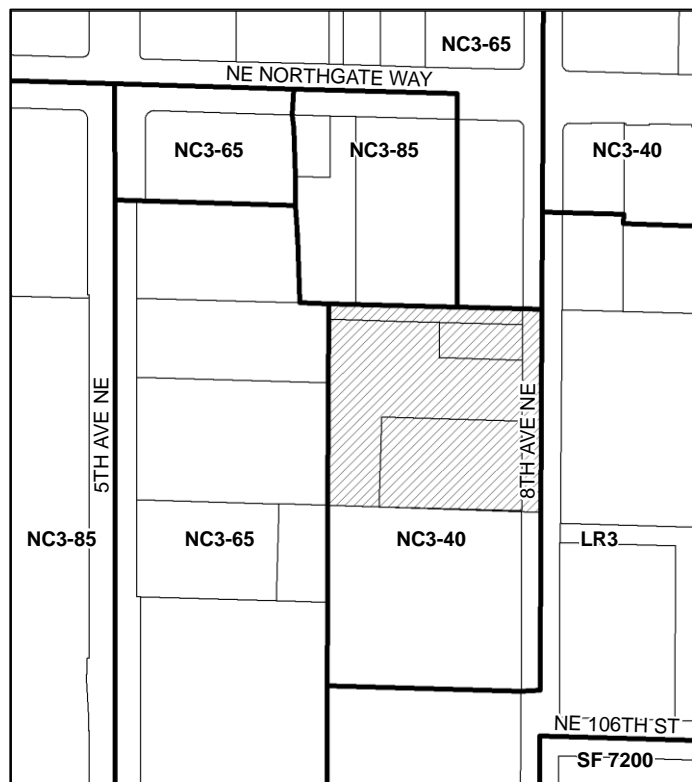
**From:** Eric McConaghy, Council Central Staff

**Subject:** Clerk File (CF) 314287: Application of Wallace Properties to rezone land at 10711 8th Ave NE a 95,027 square feet of portion of land from Neighborhood Commercial 3-40 (NC3-40) to NC3-65 (Project No. 3018442, Type IV).

### I. Recap of PLUZ, April 19, 2016

On April 19<sup>th</sup>, I briefed the Planning, Land Use and Zoning Committee (Committee) regarding a rezone proposal for multiple parcels in the Northgate Neighborhood, totaling about 2.2 acres and identified as 10711 8<sup>th</sup> Avenue NE. The site is currently zoned Neighborhood Commercial 3 with a 40 foot height limit ("NC3-40"). The proponent, Kevin Cleary of Baylis Architects, has requested a rezone of the site to Neighborhood Commercial 3 with a 65 foot height limit ("NC3-65") on behalf of multiple property owners.

This rezone request applies to a specific site; it is not an area-wide amendment proposal. Therefore, it is a Type IV quasi-judicial rezone under Seattle Municipal Code (SMC). The proposal to rezone the site is not accompanied by a development project.



Please, see my memo to the Committee dated April 13, 2016 and [the video record of the Committee meeting](#) for summary of the proposal, including the conclusions and recommendation of the Hearing Examiner to the Council to approve the rezone, without conditions.

The Committee posed several questions for follow-up at the May 3, 2016 meeting. A reiteration of the questions and responses follow.

## **II. NC3 Zone Function, Locational Criteria and Development Standards**

The Hearing Examiner concluded that the rezone site currently matched the zone function and locational criteria for NC3 (Seattle Municipal Code 23.34.078) and that the designation remains appropriate. On April 19th, PLUS inquired about the characteristics of the NC3 zoning designation, especially with regard to the pedestrian environment. The function and locational criteria, as provided in the SMC, follow:

### NC3 Zone function

To support or encourage a pedestrian-oriented shopping district that serves the surrounding neighborhood and a larger community, citywide, or regional clientele; that provides comparison shopping for a wide range of retail goods and services; that incorporates offices, business support services, and residences that are compatible with the retail character of the area; and where the following characteristics can be achieved:

1. A variety of sizes and types of retail and other commercial businesses at street level;
2. Continuous storefronts or residences built to the front lot line;
3. Intense pedestrian activity;
4. Shoppers can drive to the area, but walk around from store to store;
5. Transit is an important means of access.

### NC3 Locational Criteria

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

1. The primary business district in an urban center or hub urban village;
2. Served by principal arterial;
3. Separated from low-density residential areas by physical edges, less-intense commercial areas or more-intense residential areas;
4. Excellent transit service.

### Development Standards

The use, design and parking standards for the zone promote its function. At the street level, the pedestrian environment, there is no limit on the mix of residential and non-residential uses (except where Pedestrian zones or other mapped areas limit residential presence at street level).

The street-level, non-residential design standards call for façades that are 60% transparent (windows, doorways, etc...) and for non-residential uses with an average depth of 30 feet and minimum height of 13 feet. The street-level, residential design standards specify at least one visually prominent pedestrian entry for residential uses and that residential uses must be at least 4 feet above, or 10 feet back, from a sidewalk (with exception).

Parking (not street parking) in the NC3 zone must be at the rear or side of the building, within a structure or off-site within 800 feet. Among other parking standards affecting the pedestrian

environment, street-level parking within a structure must be separated from the façade by another permitted use, parking access must be from an alley (if feasible), and curbcuts are limited. No parking is required in Urban Centers and portions of Urban Villages within ¼ mile of frequent transit service.

### **III. East-west easement across rezone site**

The Committee inquired about the nature of the east-west easement providing access through the middle of the rezone site. This access is provided by an ingress/ingress easement across private property running from 8<sup>th</sup> Avenue NE to 5<sup>th</sup> Avenue NE (King County Recording Numbers 8805200974/8811181014). The Hearing Examiner’s records shows that the easement runs across property owned by GRE/NOP Northgate II LLC.

### **IV. Applying Provisions of the Mandatory Housing Affordability – Commercial Program**

SMC Section 23.34.004 allows the City to approve a rezone subject 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." The Committee inquired how the rezone proposal could be conditioned so that the existing SMC code provisions for affordable housing impact mitigation for commercial development (SMC 23.58B) would apply.

In practice, a “contract rezone” is a Type IV quasi-judicial rezone proposal accompanied by a development project and subject to a property use and development agreement (PUDA), the “contract.” In this formulation, the rezone is conditioned on performance or compliance of the accompanying project with the terms and conditions of the PUDA. However, Council may approve a Type IV rezone, without a development project, subject to a PUDA.

It is anticipated that Council will introduce and refer to the Committee an ordinance approving the rezone proposal subject to a PUDA on May 2, 2016. By signing the PUDA, the owners of property in the rezone site would agree to comply with one condition, namely, that the provisions of SMC 23.58B, Mandatory Housing Affordability – Commercial program (MHA-C) shall apply to all property in the rezone site. This condition is consistent with Council’s intention (SMC 23.58B.010) that SMC 23.58B apply to an area when a rezone increases the commercial development capacity in an area. By its terms, the scope of SMC 23.58B applies to contract rezones.

The application of the provisions of SMC 23.58B means that the developer of a new structure (or of an addition to an existing structure) that contains more than 4,000 square feet of new chargeable floor area devoted to commercial uses, would enter into a voluntary agreement with the City to mitigate impacts on the need for affordable housing. This mitigation could take the form of providing affordable housing or payment.

### **V. Correction of Title of Clerk File 314287**

The applicant for the rezone proposal (Project Number 3018442) is Kevin Cleary, of Baylis Architects. I request that the Committee amend the title of CF 314287, as shown below in

strikethrough and underline, to make it consistent with the content of the rezone application and the Council Bill for the rezone:

Application of ~~Wallace Properties~~ Kevin Cleary to rezone land at 10711 8th Ave NE a 95,027 square feet of portion of land from Neighborhood Commercial 3-40 (NC3-40) to NC3-65 (Project No. 3018442, Type IV).

## **VI. Committee Action on Proposed Rezone**

### **Option 1: Rezone of All Properties Together**

If the Committee wishes to recommend that Full Council approve the rezone all of the properties in the rezone site with the condition that the provisions of SMC 23.58b apply to all of the properties, then the Committee could:

Recommend to Full Council approval of the rezone application in CF 314287 and adoption of the draft Findings, Conclusions, and Decision of the City Council on the matter of the rezone, **option 1** (see Attachment A); and

Recommend to Full Council DO PASS of the rezone ordinance, as expected to be introduced and referred to PLUZ on May 2, 2016, pending the execution of the PUDA.

### **Option 2: Rezone of Separate Properties Contingent upon Execution of Agreement**

If the Committee wishes to recommend that Full Council approve the rezone of the properties in the rezone site, with the rezone of separate real properties contingent upon the execution a Property Use and Development Agreement (PUDA) by each owner of real property in the rezone site, then the Committee could:

Recommend to Full Council approval of the rezone application in CF 314287 and adoption of the draft Findings, Conclusions, and Decision of the City Council on the matter of the rezone, **option 2** (see Attachment B);

Amend the rezone ordinance, as expected to be introduced and referred to PLUZ on May 2, 2016, as shown in Attachment C to this memorandum; and

Recommend to Full Council DO PASS the amended rezone ordinance.

## **Attachments**

Attachment A: Draft Findings, Conclusions, and Decision, Option 1

Attachment B: Draft Findings, Conclusions, and Decision, Option 2

Attachment C: Amendment to Council Bill granting rezone for 10711 8th Avenue NE