

October 21, 2021

MEMORANDUM

To: Land Use and Neighborhoods Committee
From: Lish Whitson, Analyst
Subject: Clerk File 314367: Application of 14302 Development, LLC, and the Seattle Housing Authority, to rezone portions of the lot located at 14302 30th Avenue NE and portions of the lot located at 14330 30th Avenue NE from Single Family 7200 (SF 7200) to Lowrise 3 (LR3) multifamily residential (Project No. 3023581, Type IV).

On October 25, the Land Use and Neighborhoods Committee (Committee) will hold a special meeting to receive a briefing on and discuss Clerk File (CF) 314367, a contract rezone application. The proposal would rezone portions of two properties on the northwest corner of NE 143rd Street and 30th Avenue NE from Single Family 7200 (SF7200) to Lowrise 3 with a Mandatory Housing Affordability (MHA) requirement (LR3 (M)). 14302 Development, LLC is the owner of property located at 14302 30th Avenue NE ("Rezone Parcel 1"). The Seattle Housing Authority is the owner of property located at 14330 30th Avenue NE ("Rezone Parcel 2").

This memorandum (1) provides an overview of the rezone application contained in CF 314367; (2) describes proposed Council findings, conclusions and decision regarding the application, which would grant the rezone application; (3) summarizes a bill, which would amend the Official Land Use Map, also known as the zoning map, to effectuate the rezone, and accept a Property Use and Development Agreements (PUDAs) limiting future development; and (4) describes the actions the Committee may take to adopt the rezone.

Overview

14302 Development, LLC and the Seattle Housing Authority (Applicants) have applied for a contract rezone for a 22,824 square foot area located at 14302 30th Avenue NE and an 8,000 square foot area located at 14330 30th Avenue Northeast ("rezone area"). The rezone area encompasses portions of two split-zoned lots that are currently zoned Single Family 7200 and Lowrise 3 (M). The existing single-family zoning would be rezoned to Lowrise 3 (M). 14302 Development, LLC (the primary applicant) intends to develop four townhouse structures, including 12 units on its property. The Seattle Housing Authority has no immediate plans to develop its portion of the rezone area, which is currently used for surface parking accessory to one of its affordable housing projects.

The Applicants filed a rezone petition on February 14, 2017. On June 17, 2021, the Director, the Director of the Seattle Department of Construction and Inspections (SDCI) issued a recommendation to approve the rezone with conditions, an environmental determination of non-significance, and a design review decision. The Director withdrew that recommendation

and issued a revised decision on July 22, 2021. The Seattle Hearing Examiner held an open record public hearing on August 24, 2021, and issued a recommendation on September 7, 2021 to approve the rezone subject to a Property Use and Development Agreement (PUDA), the provisions of SMC 23.58B and/or 23.58C¹ and a requirement that development of the rezone area be consistent with the approved plans under SDCI Project Number 3023581. The Hearing Examiner's findings and recommendation are included with this memo as Attachment 1.

There are two pieces of the Hearing Examiner's findings and proposed conditions that the Committee should consider amending in the Council's Findings, Conclusions and Decision on the proposed rezone. These amendments are reflected in Attachment 2 and discussed below.

Mandatory Housing Affordability Suffix

SDCI's and the Hearing Examiner's analyses appear not to have considered [SMC 23.34.006](#), which was added to the Land Use Code in April 2019 as part of the Council's adoption of the MHA program. Section A of SMC 23.34.006 states:

A. When the Council approves a Type IV amendment to the Official Land Use Map that increases development capacity in an area to which Chapters [23.58B](#) and [23.58C](#) have not previously been applied, the following provisions govern application of Chapters [23.58B](#) and [23.58C](#) to the rezoned area through use of a mandatory housing affordability suffix:

1. If the rezone is to another zone in the same MHA zone category according to Table A for [23.34.006](#), the new zone should have a (M) suffix.
2. If the rezone is to another zone that is one category higher than the existing zone according to Table A for [23.34.006](#), the new zone should have a (M1) suffix.
3. If the rezone is to another zone that is two or more categories higher than the existing zone according to Table A for [23.34.006](#), the new zone should have a (M2) suffix.

¹ SMC 23.58B and 23.58C are the chapters of the Land Use Code that contain the requirements for the Mandatory Housing Affordability program.

Table A for 23.34.006 MHA Zone Categories	
Category Number	Zones
Category 1	Single-family zones
Category 2	LR1, LR2
Category 3	LR3, C or NC zones with a height limit of 30, 40, or 55 feet
Category 4	Zones with height limits greater than 55 feet and equal to or less than 95 feet
Category 5	Zones with heights greater than 95 feet ¹
Footnote to Table A for 23.34.006 ¹ An increase in development capacity of more than 25 percent, but no more than 50 percent, within Category 5 should be treated as a change of a single category. An increase in development capacity of more than 50 percent within Category 5 should be treated as a change of two categories.	

The proposed MHA M suffix included in the Hearing Examiner’s recommendation does not account for this code section. According to Table A for 23.34.006 single-family zones are in MHA Zone Category 1 and LR3 zones are in MHA Zone Category 3. Consequently, the Committee should consider applying an M2 suffix to this proposed rezone from SF 7200 to LR3.² For properties in this area, an M-designated residential project would have a Mandatory Housing Affordability payment of \$7.00 a square foot. An M2-designated project would have a payment of \$12.50 a square foot. Performance amounts for residential projects are equivalent to 5% of units in M-designated areas and 9% of units in M2-designated area.

² Some of the materials submitted by the applicants do show an M2 suffix, however that suffix is not reflected in the recommendations from SDCI or the Hearing Examiner.

Development Condition

The primary applicant has submitted plans for a 12-unit townhouse development on Rezone Parcel 1. Condition 3 recommended by the Hearing Examiner would tie development on the sites to the plans for that townhouse development as follows:

3. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit record number 3023581-LU

Development on Rezone Parcel 2, the SHA property, is not contemplated under the plans for Master Use Permit 3023581. Currently, SHA has no plans to redevelop their portion of the rezone area. At such time SHA does seek to redevelop Rezone Parcel 2, if the Council applies condition 3 to Rezone Parcel 2, SHA could be required to seek Council approval for amendment or removal of this condition.

Section A of [SMC 23.34.004](#), which authorizes rezones conditioned on Property Use and Development Agreements, states:

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

Regarding impacts related to development on the parcels, the Hearing Examiner states:

Impact Evaluation

With current zoning the properties could only provide up to two detached single-family residences. With the rezone, at least 12 multi-family units can be accommodated. Construction would temporarily increase noise, exhaust and dust. These impacts were evaluated through SEPA and are mitigated. Shadow impacts are minimal and there is no glare. The Project is an improvement as it entails road frontage improvements along 30th Avenue NE and NE 143rd Street, including a bus shelter, sidewalks, curbs and gutters, and an ADA accessible ramp, and planting strips and landscaping. If Rezone Parcel 2 is redeveloped, improvements would ensue.

Rezone Parcel 1 abuts 30th Avenue NE, a collector arterial, and NE 143rd Street, a non-arterial. Rezone Parcel 2 abuts 30th Avenue NE. A traffic and parking study demonstrated adequate road capacity and access for Parcel 1 redevelopment, which is providing one single-car garage per unit or 12 off-street parking spaces. Parcel 2 is small, and while transportation impacts will be analyzed if it is redeveloped, significant long-term impacts are not anticipated.

LR-3 height limits are 40-feet. The Project on Rezone Parcel 1 complies and Rezone Parcel 2, if developed, would be reviewed for compliance. No topographical features create view blockage or make the rezone otherwise inappropriate. LR-3 zoning surrounds much of the site and the single-family zoning to the west and south is physically separated by intervening right-of-way. The rezone meets the compatibility standards for surrounding neighborhood and scale.

Seeing no specific impacts resulting from potential future development on Rezone Parcel 2 under the rezone, the Council should consider amending the proposed conditions for Rezone Parcel 2 so that the third condition, which ties future development to the project reviewed under Master Use Permit 3023581, does not apply.

Type of Action and Materials

This rezone petition is a quasi-judicial action. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication. Council decisions must be made on the record established by the Hearing Examiner.

The Hearing Examiner establishes the record at an open-record hearing. The record contains the substance of the testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing. The entire record, including audio recordings of the Hearing Examiner's open record hearing are available for review in my office and I have provided your staff with access to the record electronically.

Committee Decision Documents

To approve a contract rezone the Committee must make recommendations to the Full Council on two pieces of legislation: (1) a Council Findings, Conclusions and Decision that is added to the Clerk File and grants the rezone application, and (2) a bill amending the zoning map and accepting PUDAs.

Clerk File 314367

If the Committee supports the direction outlined above, the Committee should make the following amendments to the Clerk File:

Title

When Clerk File 314367 was first created, it included some information that is no longer correct. The Committee should take the following action to correct the title:

Amend the title of Clerk File 314367 as follows:

Application of 14302 Development, LLC, and the Seattle Housing Authority, to rezone portions of the lot located at 14302 30th Avenue NE and portions of the lot located at 14330 30th Avenue NE from Single Family 7200 (SF 7200) to Lowrise 3 with a Mandatory Housing Affordability 2 suffix (LR3 (M2) ~~multifamily residential~~ (Project No. 3023581, Type IV).

Findings, Conclusions and Decision

Council Staff has drafted a proposed Council Findings, Conclusions and Decision (Attachment 2), which:

1. Adopts the Hearing Examiner's findings and conclusions, with corrections to the errors discussed above;
2. Adopts the Hearing Examiner's conditions with an amendment to change the required Mandatory Housing Affordability suffix from M to M2;
3. Grants the rezone subject to the recording of PUDAs requiring the owner to comply with the Hearing Examiner Conditions as amended.

If the Committee agrees with the Findings, Conclusions and Decision document as drafted, it should vote to adopt the Findings, Conclusions and Decision, and vote to recommend that the City Council grant the rezone as modified subject to conditions.

Next Steps

A second Committee meeting is scheduled for November 1 to consider the proposed rezone and vote on whether to recommend the rezone to the City Council. At that meeting, the Committee should take the following steps:

1. Amend the title of the Clerk File;
2. Place the Findings, Conclusions and Decision document in the Clerk File;
3. Amend the Findings, Conclusions, and Decision document, as appropriate; and
4. If the Committee recommends approval of the Contract Rezone, direct Central Staff to prepare a bill for introduction to effectuate the rezone.

Council Bill

If the rezone is recommended by the Committee, the Council would need to introduce and refer a new Council Bill to the City Council on or before November 8, to be considered alongside Clerk File 314367. This bill would amend the Official Land Use Map to rezone the rezone area from SF 7200 to LR3 (M2) and accept two PUDAs, one for each property to be rezoned.

Both PUDAs would require compliance with the Mandatory Housing Affordability program, including the Applicants' voluntary agreements to comply with the requirements of SMC 23.58B and 23.58C. For Rezone Parcel 1, the PUDA would also require development to be consistent with the analyzed and approved by SDCI through the current Master Use Permit application.

Final Action

If the Committee recommends adoption of the Findings, Conclusions and Decision and passage of the Council Bill, the rezone application could be ready for a City Council vote as early as November 15, 2021.

Attachments:

1. Findings and Recommendation of the Hearing Examiner for the City of Seattle
2. Proposed Findings, Conclusion and Decision

cc: Esther Handy, Director
Dan Eder, Deputy Director
Aly Pennucci, Policy and Budget Manager

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

In the Matter of Application of

Hearing Examiner Files:
CF 314367

MEDICI ARCHITECTS

Department References:
3023581-LU

For a Rezone of Property at 14302 30th Avenue NE
and 14330 30th Avenue NE.

I. FINDINGS OF FACT

1. Introduction. Request for a contract rezone from Medici Architects on portions of two parcels at 14302 and 14330 30th Avenue NE from Single Family 7200 (SF 7200) to Lowrise 3 (LR 3) (M).

- **Rezone Parcel 1:** 14302 30th Avenue NE, TPN 7663700401. The parcel is split zoned SF 7200 and LR-3. The rezone is sought on the 22,824 square foot portion zoned SF 7200. The rezone would allow four townhouse structures with 12 units.
- **Rezone Parcel 2:** 14330 30th Avenue NE, TPN 7663700391. This area is 8,000 square feet and is a small portion of a larger 108,429 square foot parcel. The area the rezone is sought on is zoned SF 7200. The larger parcel is LR3(M). The Seattle Housing Authority owns the site but authorized Medici Architects to seek the requested rezone. SHA is not now pursuing redevelopment.

2. Hearing. A properly noticed public hearing¹ was remotely held on August 24, 2021. The Seattle Department of Construction and Inspections, through Mr. Landry, described the Proposal, with Ms. McGarry addressing arborist review. The Applicant, through Ms. Kim (Principal Architect, Medici Architects) introduced the Project and called on these individuals for further detail:

- Mr. Altmann, Altmann Oliver Associates, LLC, Ecologist
- Ms. Oliver, Altmann Oliver Associates, LLC, Landscape Architect
- Mr. Hanson, Arbor Info LLC, Arborist and Forester
- Mr. Norris, Project Manager, Sr. Traffic Engineer
- Mr. Barber, Goldsmith Land Development Services, Sr. Water Resources Engineer

¹ Department Exhibit 7(d-f); SMC 23.76.052(C). No concerns on notice were raised.

Two citizens spoke, Ms. Lawty and Ms. Williams. Their comment is summarized below. There were no technical difficulties during the hearing, but in case anyone had difficulty connecting, the record was kept open through August 25.

3. Exhibits. Department Exhibits 1-9, Applicant Exhibits A-AA, and Public Comments (Mr. Webber; Lake City 9 Unit LLC; Mountainview 6 LLC, Series Two; Ms. Zeller; and Mr. Kennedy) were admitted. The Examiner conducted a site visit after the hearing, driving around but not entering the site. The visit provided context, not evidence.

4. Site and Vicinity. Rezone Parcel 1 was formerly developed with a single-family residence, but it was removed by 2016. It hosts several mature trees, with five designated as exceptional. Four townhouse structures with 12 units are planned. The Project has undergone Design Review and State Environmental Policy Act, Ch. 43.21C RCW (SEPA) review. The Design Review and SEPA decisions were not appealed. Rezone Parcel 2 is a paved parking lot for 23 cars. The larger property Rezone Parcel 2 is part of has 41 housing units and 46 parking stalls constructed in 1970. Redevelopment is not now proposed.

An open-ditch drainage system along Rezone Parcel 1's east boundary is classified as a non-fish bearing Type 4 Stream. The ditch functions as part of the regional stormwater conveyance system. The Applicant discussed the Project with the City of Seattle and WA State Dept. of Fish & Wildlife. The stream will be preserved and the riparian corridor restored. The open channel drainage system will not be converted to a closed pipe conveyance system. Parcel 2 is not so encumbered. If redeveloped in the future, critical areas review would ensue.

LR-3 (M) zoning is to the east and SF 7200 is to the west. Both zones are also to the north and south. The site is within the Olympic Hills neighborhood of Lake City, northeast Seattle. It is west of Lake City Way, the primary thoroughfare bisecting this neighborhood, with commercial development on both sides. Overlay Districts are Frequent Transit and Pedestrian Area.

5. Public Comment, Hearing. Ms. Lawty expressed support for the sidewalk plan and appreciation for the Applicant's outreach. She raised concerns about flooding potential and questioned the split-rail fence. Requiring public access to the restoration area was a significant issue. Ms. Williams stated she is with the Thornton Creek Alliance. She understood the need for the rezone, appreciated the Applicant's outreach, and was pleased to learn about the five years of monitoring associated with the vegetation restoration.

On public access, the Applicant noted the conflict with maintaining environmental protections and allowing public entry to the restoration area. The Examiner noted her concern about not having a legal basis for requiring public access; Ms. Lawty intends to work on this issue.²

² The code does not require public access to the restoration area and an impact warranting same was not identified. While not recommended here, this does not preclude its voluntary provision.

A question was raised on future review and opportunity for public comment. The Examiner stated that while the City Council makes the final decision, this is the public hearing for the Project, so if anyone has comment, now is the time to provide it and there may not be another opportunity. The Examiner did caution that as these processes occur outside Examiner purview, others determine the appropriate review processes and methods of input, not the Examiner. Information on subsequent review is at the end of this recommendation.

6. Written Comments. Opportunities for public input through review have included the Early Design Guidance Meeting for the development on Parcel 1 and SEPA review. The Department Recommendation addresses these comments, which are included with the Department's exhibits. Comments submitted to the Examiner requested sidewalk elimination on the hill going up NE 143rd Street due to road narrowness; lack of parking in an area with a parking shortage; a request for sidewalks on NE 143rd Street and 30th Avenue NE to address pedestrian safety; concerns over additional traffic at 143rd Street and 30th Avenue NE, a dangerous corner particularly when northbound cars turn right on 143rd Street; and concerns on construction noise and dust affecting the residences along the west side of 3024 NE 143rd Street.

Sidewalk improvements for the Rezone Parcel 1 redevelopment are required for pedestrian safety and walkability. The traffic impact analysis concluded the road system is adequate to serve the Project. During building permit review, construction management plans address noise and dust. There are parking impacts, but the redevelopment Project provides required parking.

7. Director's Review. The Director analyzed the Proposal's long and short-term environmental impacts, and the Director's Recommendation analyzed the proposed contract rezone and recommended approval with three conditions. *See* Exhibit 9(L)(ii), July 22, 2021.

8. Applicable Law. Criteria for assessing a site-specific rezone request are at SMC 23.34.004 (contract rezones), 23.34.007 (rezone evaluation), 23.34.008 (rezone criteria), 23.34.009 (height limits), and 23.34.020 (LR-3 locational criteria). The key consideration is zoning compatibility with the area's land use characteristics.

II. CONCLUSIONS OF LAW

1. Jurisdiction. The Hearing Examiner has jurisdiction to issue a recommendation on the rezone, while the Council makes the final decision.³

2. Contract Rezone. As this is a contract rezone, a Property Use and Development Agreement or PUDA will be executed and recorded.⁴ The Code (*See e.g.*, Ch. 23.58B and .58C SMC) details payment and performance requirements. No waivers were requested.

3. Rezone Criteria. Applicable sections of Ch. 23.34 SMC on rezones are weighed and balanced together to determine the most appropriate zone and height designation.⁵ Zone

³ SMC 23.76.004(C); SMC 23.76.004, Table A.

⁴ SMC 23.34.004.

⁵ SMC 23.34.007.

function statements are used "to assess the likelihood that the area proposed to be rezoned would function as intended."⁶ "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement...."⁷ The most appropriate zone designation is the one "for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation."⁸

Match Between Zone Criteria and Area Characteristics

The Proposal meets criteria for best matching the characteristics of the area with the appropriate zoning district.⁹ Both sites are split zoned. The Proposal would allow the parcels to be within the same zone. Besides unifying the zoning on Parcel 1, the rezone allows an intensification of residential use. SHA is contemplating redeveloping the Parcel 2 site with affordable housing units. The LR-3 zoning would allow for optimal site layout. Rezoning to LR3 (M) will facilitate the use of the MHA suffix. With the rezone, redevelopment will either provide on-site affordable housing or pay an affordable housing fee. Consistent with SMC 23.34.020, the two sites are well-suited for the LR-3 (M) zone as they are:

- Within an existing multifamily neighborhood;
- Near an arterial street characterized by a mix of structures of low and moderate scale;
- Near neighborhood commercial zones with comparable height and scale;
- Well served by public transit;
- In an area with direct arterial street access which can accommodate anticipated traffic without using streets passing through lower density residential zones; and,
- Well supported by existing or project facilities and services including retail sales and services, parks, and community centers with good pedestrian access.

The Proposal provides a variety of multifamily housing types in existing multifamily neighborhoods, along arterials with a mix of small to moderate scale residential structures.¹⁰ The two parcels are along an arterial (30th Avenue NE). The site has easy access (two blocks) to commercial services and shopping opportunities along Lake City Way. The proposal aids in transitioning between multi-family residential use and single-family detached residences physically separated by 30th Avenue NE.¹¹ The rezone would allow multi-story multi-family structures with a 40-foot height limit, which is appropriate for this location, given nearby uses (mix of single-story residences and 2, 3, and 5 story multi-family residential buildings) and the proximity to pedestrian-oriented shopping and services.

⁶ SMC 23.34.007(A).

⁷ SMC 23.34.007(B).

⁸ SMC 23.34.008(B).

⁹ SMC 23.34.008.

¹⁰ SMC 23.34.020.

¹¹ SMC 23.34.020.

Supporting infrastructure is present. Street widths are sufficient for traffic and parking.¹² Both Parcels 1 and 2 front 30th Avenue NE. Parcel 1 also fronts NE 143rd Street along the south property boundary. Both street frontages require right-of-way dedication and Street Improvement Plans through the Seattle Department of Transportation. Both roadways will be improved to City standards as SDOT directs. The Traffic Impact Analysis concluded the existing road network can accommodate anticipated vehicular traffic, which will not need to rely on passing through lower density residential zones. Public transit serves the area, with a bus stop along the 30th Avenue NE frontage. Several other bus lines are within walking distance. Water, sewer, stormwater and electrical service is available for Parcel 1 redevelopment. Public amenities serve the site, including park facilities, a public trail system, and public schools (elementary, middle, and high schools).¹³

Neighborhood Plan/Precedential Effect

The site is not within a shoreline, neighborhood plan or urban village, though it is within the North Neighborhoods (Lake City) neighborhood plan area.¹⁴ The Comprehensive Plan has no applicable neighborhood-specific criteria for the rezone. The Plan does establish policies for guiding future rezones. Policy NN-P38 states rezones in this area that increase residential density, bulk, and height are not favored. However, both sites are split zoned SF 7200 and LR-3 and the contract rezone application simply requests the two sites have a consistent zoning designation of LR-3 with the same density and building bulk already allowed on the remainder of these parcels. As the Proposal addresses the split-zoning issue, there is no precedential effect.

Zoning Principles

The code provides for transition or buffering between zones of differing intensities. The rezone provides an appropriate transition. The two sites are immediately adjacent to properties zoned LR-3. Properties immediately east and to the north are zoned LR-3 (M) and developed with multifamily structures and have a similar development character. The LR-3 zone allows for multi-family development comparable with multi-family development in the area. Single-family residences to the west, southwest and southeast are separated from the rezone sites by 30th Avenue NE, an arterial that provides an appropriate buffer. Also, the new zone boundaries would follow platted lot lines and/or street rights of way, consistent with code criteria.

Impact Evaluation

With current zoning the properties could only provide up to two detached single-family residences. With the rezone, at least 12 multi-family units can be accommodated. Construction would temporarily increase noise, exhaust and dust. These impacts were evaluated through SEPA and are mitigated. Shadow impacts are minimal and there is no glare. The Project is an improvement as it entails road frontage improvements along 30th Avenue NE and NE 143rd Street, including a bus shelter, sidewalks, curbs and gutters, and an ADA accessible ramp, and planting strips and landscaping. If Rezone Parcel 2 is redeveloped, improvements would ensue.

¹² SMC 23.34.020.

¹³ SMC 23.34.020; Exhibit 9(L)(ii) (Director's Recommendation), pp. 32-33.

¹⁴ Consequently, criteria on same do not apply. *See e.g.*, relevant sections of SMC 23.34.007, .008.

Rezone Parcel 1 abuts 30th Avenue NE, a collector arterial, and NE 143rd Street, a non-arterial. Rezone Parcel 2 abuts 30th Avenue NE. A traffic and parking study demonstrated adequate road capacity and access for Parcel 1 redevelopment, which is providing one single-car garage per unit or 12 off-street parking spaces. Parcel 2 is small, and while transportation impacts will be analyzed if it is redeveloped, significant long-term impacts are not anticipated.

LR-3 height limits are 40-feet. The Project on Rezone Parcel 1 complies and Rezone 2, if developed, would be reviewed for compliance. No topographical features create view blockage or make the rezone otherwise inappropriate.¹⁵ LR-3 zoning surrounds much of the site and the single-family zoning to the west and south is physically separated by intervening right-of-way. The rezone meets the compatibility standards for surrounding neighborhood and scale.

Changed Circumstances

The properties were originally designated single-family in the 1954 annexation, and partially updated to LR-3 in 1982. Before annexation, the properties were unzoned as the County did not implement zoning until 1958. The Growth Management Act, Ch. 36.70A RCW, has since been adopted. Seattle is now planning for an additional 70,000 residents by 2035. 65% of the city is zoned for single-family detached units. Allowing for 10-11 new residences beyond what is now allowed on these two parcels would help accommodate planned growth.

Overlay Districts/Critical Areas

The Proposal does not rezone land within a critical area. The Rezone Parcel 1 site is within a larger parcel already zoned LR-3 and encumbered by Littlebrook Creek. While part of the redevelopment area, neither Rezone Parcel 1 nor 2 is within this critical area.¹⁶

Weighing and balancing the applicable sections of Ch. 23.34 SMC together, the most appropriate zone designation for the site is LR-3 (M) with a PUDA.

RECOMMENDATION

The Hearing Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA, with the Department's recommended contract rezone conditions, Attachment 1, Conditions 3-5.

Entered September 7, 2021.

/s/ Susan Drummond
Susan Drummond
Deputy Hearing Examiner

¹⁵ See SMC 23.34.009.

¹⁶ The larger Parcel 1 redevelopment includes buffering and buffer enhancement, as detailed in the Stream buffer and Enhancement Plan and Report. It does not adversely impact critical areas.

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner's recommendation to consult appropriate Code sections to determine applicable rights and responsibilities.

Under SMC 23.76.054, any person substantially affected by a recommendation of the Hearing Examiner may submit an appeal of the recommendation in writing to the City Council. The appeal must be submitted within fourteen (14) calendar days following the date of the issuance of the recommendation of the Hearing Examiner, and be addressed to:

Seattle City Council
Planning, Land Use and Zoning
c/o Seattle City Clerk
600 Fourth Avenue, Floor 3
P.O. Box 94728
Seattle, WA 98124-04728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Consult the City Council committee named above for further information on the Council review process.

Attachment 1 Conditions

CONDITIONS – DESIGN REVIEW

Prior to Certificate of Occupancy

1. The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner (David Landry, david.landry@seattle.gov) or a Seattle DCI assigned Land Use Planner.

For the Life of the Project

2. The building and landscape design shall be substantially consistent with the materials represented at the Recommendation meeting and in the materials submitted after the Recommendation meeting, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner (David Landry, david.landry@seattle.gov) or a Seattle assigned Land Use Planner.

RECOMMENDED CONDITIONS – REZONE.

Prior to Issuance of a Master Use Permit

3. The rezone includes a Mandatory Housing Affordability designation of M.
4. Development of the rezoned property shall be subject to the requirements of SMC 23.58B and/or 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying SMC 23.58B and/or 23.58C.
5. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit record number 3023581-LU.

RECOMMENDED CONDITIONS - SEPA

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

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

During Construction

7. All tree protection measures as outlined in the Arborist report for the preservation of the exceptional tree shall be adhered to for all work associated with the project's demolition, excavation, shoring, and construction permits.

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

In the matter of the Petition:)	Clerk File 314367
Application of 14302 Development, LLC, and the Seattle Housing Authority, to rezone portions of the lot located at 14302 30th Avenue NE and portions of the lot located at 14330 30th Avenue NE from Single Family 7200 (SF 7200) to Lowrise 3 with a Mandatory Housing Affordability 2 suffix (LR3 (M2)) (Project No. 3023581, Type IV).))))))))))	FINDINGS, CONCLUSIONS, AND DECISION

Introduction

This matter involves a petition by 14302 Development, LLC and the Seattle Housing Authority (the “Applicants”), to rezone approximately 22,824 square feet of land located at 14302 30th Avenue NE (“Rezone Parcel 1”) and approximately 8,000 square feet of land located at 14330 30th Avenue NE (“Rezone Parcel 2”) from Single Family 7200 (SF7200) to Lowrise 3 with a Mandatory Housing Affordability 2 suffix (LR3 (M2)). Attachment A shows the area to be rezoned.

On July 22, 2021, the Director of the Seattle Department of Construction and Inspections (SDCI) recommended approval of the proposed rezone, with conditions. SDCI also issued an environmental determination of non-significance and a design review decision.

The Hearing Examiner held an open record hearing on the rezone recommendation on August 24, 2021. On September 7, 2021, the Hearing Examiner issued Findings and Recommendation that recommended approval of the rezone, subject to conditions. On November 1, 2022, the Land Use and Neighborhoods Committee of the Council reviewed the record and the

recommendations by SDCI and the Hearing Examiner and recommended approval of the contract rezoned to the Full Council.

Findings of Fact

The Council hereby adopts the Hearing Examiner's Findings of Fact as stated in the Findings and Recommendation of the Hearing Examiner dated September 7, 2021, with an amendment to Finding of Fact No. 8 as amended below:

* * *

8. Applicable Law. Criteria for assessing a site-specific rezoned request are at SMC 23.34.004 (contract rezoned), 23.34.006 (application of MHA suffixes in Type IV rezoned), 23.34.007 (rezoned evaluation), 23.34.008 (rezoned criteria), 23.34.009 (height limits), and 23.34.020 (LR-3 locational criteria). The key consideration is zoning compatibility with the area's land use characteristics.

* * *

Conclusions

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Findings and Recommendation of the Hearing Examiner dated September 7, 2021, with the following amendments to Conclusion No. 3:

* * *

3. Rezoned Criteria. Applicable sections of Ch. 23.34 SMC on rezoned are weighed and balanced together to determine the most appropriate zone and height designation. Zone function statements are used "to assess the likelihood that the area proposed to be rezoned would function as intended." "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement..." The most appropriate zone designation is the one "for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation."

Match Between Zone Criteria and Area Characteristics

The Proposal meets criteria for best matching the characteristics of the area with the appropriate zoning district. Both sites are split zoned. The Proposal would allow the parcels to be within the same zone. Besides unifying the zoning on Rezone Parcel 1, the rezone allows an intensification of residential use. SHA is contemplating redeveloping the Rezone Parcel 2 site with affordable housing units. The LR-3 zoning would allow for optimal site layout. Rezoning to LR3 (M) will facilitate the use of the MHA suffix. With the rezone, redevelopment will either provide on-site affordable housing or pay an affordable housing fee. Consistent with SMC 23.34.006 and 23.34.020, the two sites are well-suited for the LR-3 (M₂) zone as they are:

- Within an existing multifamily neighborhood;
- Near an arterial street characterized by a mix of structures of low and moderate scale;
- Near neighborhood commercial zones with comparable height and scale;
- Well served by public transit;
- In an area with direct arterial street access which can accommodate anticipated traffic without using streets passing through lower density residential zones; ((and;))
- Well supported by existing or project facilities and services including retail sales and services, parks, and community centers with good pedestrian access((-)); and
- A rezone from a Category 1 to a Category 3 zone under SMC 23.34.006, requiring an M2 MHA suffix.

Weighing and balancing the applicable sections of Ch. 23.34 SMC together, the most appropriate zone designation for the site is LR-3 (M₂) with a PUDA.

* * *

Decision

The Council hereby **GRANTS** a rezone of the Property from SF 7200 to LR3 (M2), as shown in Exhibit A. The rezone is subject to the execution of Property Use and Development Agreements requiring the owners to comply with the following conditions found in the Hearing Examiner's recommendation, with the amendments shown below, which are adopted by the Council.

Rezone Parcel 1:

1. The rezone includes a Mandatory Housing Affordability designation of M~~2~~.
2. Development of the rezoned property shall be subject to the requirements of SMC 23.58 B and/or 23.58 C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying SMC 23.58 B and/or 23.58 C.
3. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit record number 3023581-LU.

Rezone Parcel 2:

1. The rezone includes a Mandatory Housing Affordability designation of M~~2~~.
2. Development of the rezoned property shall be subject to the requirements of SMC 23.58 B and/or 23.58 C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying SMC 23.58 B and/or 23.58 C.
- ~~((3. Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit record number 3023581-LU.))~~

Dated this _____ day of _____, 2021.

City Council President

ATTACHMENT A

