

September 14, 2017

MEMORANDUM

To: Planning, Land Use and Zoning Committee
From: Lish Whitson, Council Central Staff
Subject: Clerk File 314325 – 1106 34th Avenue Rezone

This memorandum: (1) provides an overview of the rezone application contained in Clerk File (CF) [314325](#); (2) describes the contents of Council decision documents, which would grant the rezone application; and (3) summarizes a draft Council Bill (Attachment 4) which would amend the Official Land Use Map, also known as the zoning map, to effectuate the rezone, and accept a Property Use and Development Agreement (PUDA) effecting future development on the site.

Overview

Martin Liebowitz and 34th & Spring LLC (Applicant) has applied for a contract rezone from Lowrise 2 (LR2) to Neighborhood Commercial 1 with a 30-foot height limit (NC1-30), which would apply to two parcels at the northwest corner of 34th Avenue and East Spring Street in the Madrona neighborhood. The northernmost parcel is currently split between NC1-30 and LR2. The rezone area is approximately 10,917 square feet. There are two residential buildings in the rezone area: a single family house and a four-plex.

Zoning to the east of the rezone area is Single Family 5000. The LR2 zoning extends south across East Spring Street. To the north and to the west across 34th Avenue, the zoning is NC1-30.

No development is currently proposed.

The Applicant filed a rezone petition in September 2015 to rezone the northern parcel to NC1-30 and the southern parcel to LR3. In November 2016, the rezone application was revised to rezone both parcels NC1-30. On June 5, 2017 the Seattle Department of Construction and Inspections (SDCI) issued an affirmative rezone recommendation and a Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA). The Hearing Examiner held a hearing on July 10, 2017 and on August 2, 2017 issued a recommendation to approve the requested rezone subject to a PUDA. On September 5, 2017 the Hearing Examiner issued a corrected recommendation to approve the rezone.

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, is available for review in my office.

Committee Decision Documents

To approve a contract rezone, the Council must make recommendations to the Full Council on two pieces of legislation: (1) a Council Findings, Conclusions and Decision that grants the rezone application and (2) a bill amending the zoning map and approving a PUDA.

1. CF 314325: Findings, Conclusions and Decision

The CF for this rezone contains the Hearing Examiner's record for the proposal. Based on changes to the proposal since the Clerk File was introduced, the Committee should amend the title of CF 314325 to correctly identify the zones. An amendment is shown below with language to be deleted shown in ~~strikeout~~ and language proposed to be added shown underlined.

Application of ~~Martin Squared, LLC~~ Martin Liebowitz to rezone approximately ~~4,808,918~~ 4,808,918 square feet of a site located at 1106 34th Ave from Lowrise 2 multifamily residential (LR2) to Neighborhood Commercial 1 with a 30 foot height limit (NC1 30) ~~and approximately 6,109 square feet of the same site from LR2 to Lowrise 3 multifamily residential (LR3)~~ (Project No. 3020405; Type IV).

Council staff has drafted a proposed Council Findings, Conclusions and Decision, which:

- Adopts the Hearing Examiner's findings and conclusions;
- Adds additional findings related to applicability of the MHA program to the decision;
- Approves the proposed rezone to Neighborhood Commercial 1-30 with a Mandatory Housing Affordability suffix (NC1-30 (M)) and subject to a condition that the Applicant execute a PUDA requiring participation in the Mandatory Housing Affordability program; and
- Sets out MHA-R performance and payment amounts at 6% of units or \$13.25 per square foot.

2. Rezone Bill

Attached to this memo is a draft bill to amend the Official Land Use Map to rezone the property and approve and accept the PUDA. If the Committee grants the application in the CF, I will have this introduced for a vote at Full Council.

Next Steps

The rezone bill will be considered by PLUZ for a potential recommendation to Full Council on September 19. Depending on Committee action, a Full Council vote would occur not earlier than October 2.

Attachments:

1. Proposed Council Findings, Conclusions and Decision;
2. The Hearing Examiner's corrected recommendation to approve the rezone;
3. Vicinity Map dated August 4, 2015 excerpted from the Hearing Examiner's Exhibits
4. Draft Council Bill to amend the Official Land Use Map and approve and accept the executed PUDA.

cc: Kirstan Arestad, Central Staff Director
Ketil Freeman, Supervising Analyst

Attachment 1: Proposed Council Findings, Conclusions and Decision

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

In the matter of the Petition of:)	Clerk File 314325
Martin Liebowitz)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For approval of a rezone of property)	
located at 1106 34 th Avenue)	

Introduction

This matter involves a petition by Martin Liebowitz (the Applicant), to rezone portions of two parcels, totaling approximately 10,917 square feet, located at 1106 34th Avenue (the Property) from Lowrise 2 (LR2) to Neighborhood Commercial 1 with a 30-foot height limit (NC1 30). Attachment A shows the area to be rezoned (the Rezone Area).

On June 5, 2017, the Director of the Seattle Department of Construction and Inspections (SDCI) recommended approval of the proposed rezone, with conditions. SDCI also issued a State Environmental Policy Act (SEPA) decision.

The Hearing Examiner held an open record hearing on the rezone recommendation on July 10, 2017. On August 2, 2017, the Hearing Examiner issued findings and conclusions and recommended approval of the rezone, subject to conditions. On September 5, 2017 the Hearing Examiner issued a corrected findings and conclusions recommending approval of the rezone, subject to conditions. On September 8, 2017, the Planning, Land Use and Zoning Committee of the Council reviewed the record and the recommendations by SDCI and the Hearing Examiner and recommended approval of the contract rezone to the 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 5, 2017. In addition, the Council adopts the following Findings of Fact:

1. The Rezone Area is an area where increased residential development will assist in achieving local growth management and housing policies.
2. Approval of the rezone provides increased residential and commercial development capacity in the Rezone Area.
3. Pursuant to Director's Rule 14-2016, the zoning designation resulting from the rezone should include a Mandatory Housing Affordability suffix of (M).

Conclusions

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Findings and Recommendation of the Hearing Examiner dated August 2, 2017.

Decision

The Council hereby **GRANTS** a rezone of the Rezone Area from LR2 to NC1 30 with a Mandatory Housing Affordability suffix of (M), resulting in a new designation of NC1-30 (M), as shown in Exhibit A. Development of the Rezone Area is subject to the following rezone conditions related to application of Seattle Municipal Code Chapters 23.58B and 23.58C. The following conditions replace the condition in the Findings and Recommendation of the Hearing Examiner and must be incorporated into an executed Property Use and Development Agreement:

Development of the Rezone Area shall be subject to the requirements of SMC Chapters 23.58.B and 23.58.C. For purposes of application of Chapter 23.58C,

future development of the Rezone Area shall be subject to the following performance or payment requirements:

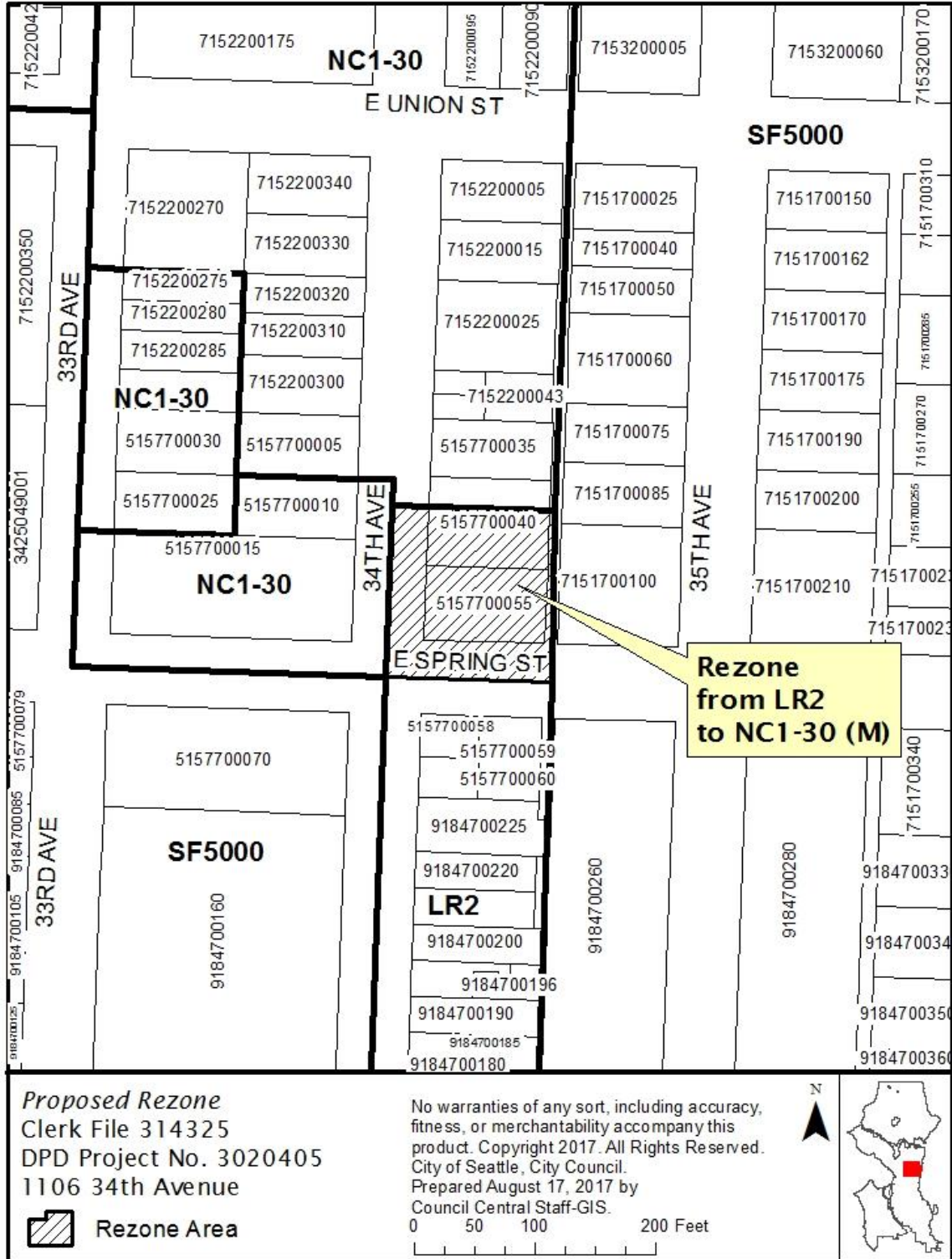
6% of units for the performance option or \$13.25 per square foot for the payment option.

Dated this _____ day of _____, 2017.

City Council President

Proposed

ATTACHMENT A



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

In the Matter of the Application of

CF 314325

MARTIN LIEBOWITZ

Department Reference:
3020405

for a contract rezone for property located
at 1106 34th Avenue

Introduction

Martin Liebowitz, applied for a rezone of property located at 1106 34th Avenue from Lowrise Two ("LR2") to Neighborhood Commercial One with a 30 foot height limit ("NC1-30"). The Director of the Department of Construction and Inspections ("Director") submitted a report recommending that the rezone be approved. The Director's report included a State Environmental Policy Act ("SEPA") Determination of Non-significance, which was not appealed.

A hearing on the rezone application was held before the Hearing Examiner ("Examiner") on July 10, 2017. The Applicant Martin Leibowitz ("Applicant"), represented himself, and the Director was represented by Colin R. Vasquez, Senior Land Use Planner. The Examiner visited the site on July 27, 2017. Following the submission of additional comments by the parties in response to questions from the Examiner, the record closed on July 31, 2017.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code ("SMC" or "Code") unless otherwise indicated. Having considered the evidence in the record and reviewed the site, the Examiner enters the following findings of fact, conclusions and recommendation on the rezone application.

Findings of Fact

Site and Vicinity

1. The subject site is located at the northeast corner of the intersection of 34th Avenue and East Spring Street. The site contains 2 parcels with 2 existing residential buildings. The parcels that comprise the area addressed by the rezone proposal collectively total 10,917 square feet. The site is bounded on the south by East Spring Street, to the west by 34th Avenue, and to the east by an unimproved alley. The neighborhood generally includes multi-family housing and commercial service. Thirty-Fourth Avenue is characterized by several multi-story, mixed use structures and one-story commercial services. Most of the neighborhood buildings are between one and two-stories high with a few three and four-story structures. Services within walking distance of the site include grocery stores, restaurants, retail, and parks including Madrona Park approximately five blocks to the east on the shores of Lake Washington. Martin Luther King Jr. Way is located six blocks to the west of the site. Under current development standards, access to the site will be from the alley

on the east side of the property. The site slopes down approximately 4 feet from west to east along East Spruce Street.

2. The majority of the subject site is zoned Lowrise Two ("LR2"), but the northern part of the north parcel is zoned Neighborhood Commercial One with a 30 foot height limit ("NC1-30"), and both parcels are developed with single family homes. To the north of the site is a one story commercial building at 1112 34th Avenue in an area zoned NC1-30. Across 34th Avenue to the west, properties are zoned NC1-30, and are developed for residential use including an apartment structure and single-family homes. Properties to the east are zoned Single Family 5000 ("SF5000") and are developed with residential homes. Lots to the south are zoned LR2. Across East Spring Street to the southwest is the Madrona Playfield with various recreation and play facilities, directly to the south are multi-story townhouses, and to the southeast is the playground for the nearby St. Therese School. Recent new developments have trended away from small residential development, towards small commercial and multi-unit residential dwellings.
3. Thirty Fourth Avenue is designated a collector arterial. Transit improvements to increase transit speed and reliability have been implemented since the most recent zoning change for the area in 2011.

Zoning History and Potential Zoning Changes

4. On January 24, 1964, the property was zoned Multiple Low Density Zone ("RM"), and this was changed to Lowrise Two ("L2") in a rezone of the property on June 9, 1986. The most recent zoning change to the site occurred in 2011, when the zoning changed from L2 to LR2 for this site and similarly zoned sites throughout the City.
5. The Director reports that there are no City initiated zoning changes proposed for the neighborhood, or sites surrounding the subject property.

Neighborhood Plan

6. There is no Council adopted neighborhood plan for this site.

Proposal

7. The proposed rezone does not include a specific development.
8. The Applicant seeks to rezone the site from LR2 to NC1-30 with a property use and development agreement ("PUDA"). The terms of the PUDA are not disclosed in the record before the Examiner.
9. The current height limit for the site is 30 feet. The proposed rezone would not increase the building height that could be achieved under current zoning.

Public Comment

10. Written comments were received during the comment period. Comments on the proposal raised concerns regarding the amount of undeveloped commercial property available, existing inadequacy of on street parking, mass of potential larger buildings in relation to adjacent residential buildings, additional commercial uses in a residential area, and traffic. Additional comments favored the addition of new commercial space. *See Exhibit 2.*
11. Neighbors Leila Kirske and Jim Mattson testified at the hearing expressing their concerns regarding the proposal related to potential traffic, parking, massing, and development impacts, and the lack of an actual project proposal associated with the rezone. The Examiner also received one written comment at the hearing that expressed concerns related to development impacts, and proposed use of the alley to the east of the site for access to the proposal. Exhibit 3.

Director's Review

12. The Director analyzed the proposal's potential long-term and short-term environmental impacts, and issued a Determination of Non-significance.
13. The Director's report, Exhibit 2, analyzes the proposed contract rezone and recommends that it be approved with one condition.

Applicable Law

14. SMC 23.34.008 provides the general rezone criteria. The criteria address the zoned capacity and density for urban villages; the match between the zone criteria and area characteristics; the zoning history and precedential effect of the rezone; neighborhood plans that apply; zoning principles that address relative intensities of zones, buffers and boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; the presence of overlay districts or critical areas, and whether the area is within an incentive zoning suffix.
15. SMC 23.34.007.C provides that compliance with the requirements of Chapter 23.34 SMC constitutes consistency with the Comprehensive Plan for purposes of reviewing proposed rezones, but the Comprehensive Plan may be considered where appropriate.

Conclusions

1. The Examiner has jurisdiction over this matter pursuant to SMC 23.76.052, and makes a recommendation on the proposed rezone to the City Council.
2. SMC 23.34.007 provides that the applicable sections of Chapter 23.34 SMC on rezones are to be weighed and balanced together to determine the most appropriate zone and height designation. In addition, the zone function statements are to be used "to assess the likelihood that the area proposed to be rezoned would function as intended." SMC 23.34.007.A. "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement" SMC 23.34.007.B.

Effect On Zoned Capacity

3. The rezone parcels are not located within an urban center or urban village; therefore, this criterion does not apply.

Match Between Zone Criteria and Area Characteristics

4. The most appropriate zone designation is the one "for which the provisions for designation of the zone type and the locational criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation." SMC 23.34.008.B In this case, the subject property is part of a blockfront that is zoned NC1-30. The northern part of the north parcel is already zoned NC1-30. Expanding this commercial zoning to the south would support the ability of this blockfront to function as a small shopping area for the adjacent residential neighborhood. The proposed rezone would be consistent with the adjacent zoning to the north, and across 34th Avenue to the west. Currently, the site and its relation to adjacent zoning matches the NC1 zone function and locational criteria, found in SMC 23.34.074,¹ so the designation is appropriate. For example, 34th Avenue includes a variety of small neighborhood-serving businesses, is characterized by continuous storefronts built to the front lot line, and is a collector arterial. In addition, the site is outside of urban centers and urban villages, has small parcel sizes, and has only the alley to the east to serve as a physical edge to buffer the residential area.

Precedential Effect

5. There do not seem to be properties in the vicinity for which this rezone will set a precedent. The rezone fits a pattern of NC1-30 zoning established on both sides of 34th Avenue for two blocks between East Spring Street and East Pike Street. This site is located at the edge of that area. Past that edge are parcels developed with established residential neighborhoods, parks and institutional uses such as schools that do not fit the criteria for NC1-30 zoning.

¹ 23.34.074 - Neighborhood Commercial 1 (NC1) zones, function and locational criteria.

A. Function. To support or encourage a small shopping area that provides primarily convenience retail sales and services to the adjoining residential neighborhood, where the following characteristics can be achieved:

1. A variety of small neighborhood-serving businesses;
2. Continuous storefronts built to the front lot line;
3. An atmosphere attractive to pedestrians;
4. Shoppers walk from store to store.

B. Locational Criteria. A Neighborhood Commercial 1 zone designation is most appropriate on land that is generally characterized by the following conditions:

1. Outside of urban centers and urban villages, or within urban centers or urban villages where isolated or peripheral to the primary business district and adjacent to low-density residential areas;
2. Located on streets with limited capacity, such as collector arterials;
3. No physical edges to buffer the residential areas;
4. Small parcel sizes;
5. Limited transit service.

Neighborhood Plan

6. As indicated above, there is no adopted or amended neighborhood plan established by the City Council for this site, therefore this criterion does not apply.

Zoning Principles

7. The zoning principles listed in SMC 23.34.008.E are generally aimed at minimizing the impact of more intensive zones on less intensive zones, if possible. They express a preference for a gradual transition between zoning designations, including height limits, if possible, and potential physical buffers to provide an effective separation between different uses and intensities of development.
8. There is some effective separation between the proposal and adjacent and nearby residentially zoned properties provided by adjacent streets to the west and south. In addition, an alley separates the site from residential structures to the east.
9. The proposed rezone would continue an existing pattern by extending NC1-30 zoning south along 34th Avenue where commercially zoned properties face commercially zoned properties across this street, and for commercially zoned properties to transition to properties zoned SF 5000 to the east across the alley.

Impact Evaluation

10. If the property is redeveloped for commercial use only, then the current two residential structures will be lost to the housing supply. If the property is redeveloped for mixed commercial and residential uses, the proposal has the potential to increase housing supply. The proposed rezone will positively impact the affordable housing supply, as the PUDA will ensure compliance with SMC 23.58B and 23.58C.
11. Although the proposal would increase the demand for public services, the increase would be minimal. There is no evidence in the record that the demand would exceed service capacities. In particular, school capacity, public park capacity, energy availability, street capacity, transit service and parking capacity were shown to be sufficient to serve the potential commercial and residential uses that would be allowed by the rezone. The Director has evaluated impacts on public services and service capacities, as well as noise, air, water, flora and fauna, glare, odor, shadows, energy, and other environmental impacts, pursuant to SEPA, and has identified conditions to mitigate impacts that are not otherwise adequately addressed through existing regulations.
12. The site does not lie within a shoreline district, no public access is being impacted or removed with this proposal and no existing recreational areas are being impacted or removed.

Changed Circumstances

13. Changed circumstances are to be considered but are not required to demonstrate the appropriateness of a proposed rezone. The immediate neighborhood has witnessed an increase in the number of office, retail and residential dwelling projects being permitted. In general, several

new buildings have been built along 34th Avenue in the last ten years and increased density is a trend that is expected to continue. Area development patterns continue to change from small residential development, towards small commercial and multi-unit residential dwellings. In addition, transit improvements have been implemented since the most recent zoning change for the area in 2011.

Overlay Districts/Critical Areas

14. The subject property is not within an overlay district or critical area; therefore, these criteria do not apply.
15. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the subject site is NC1-30 with a PUDA.

Compliance with Mandatory Housing Affordability

The Applicant has challenged the Council's authority to condition the proposal pursuant to SMC 23.58.B and 23.58.C. The Council's authority is clearly provided in the Code:

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

SMC 23.34.004.B. SMC 23.58B.015 states that "This Chapter 23.58B contains provisions that apply where the provisions of the zone refer to this Chapter 23.58B, or through the terms of a contract rezone according to Section 23.34.004." SMC 23.58C.015 provides that "This Chapter 23.58C contains requirements that apply only where provisions of the zone refer to this Chapter 23.58C, or through the terms of a contract rezone according to Section 23.34.004."

Recommendation

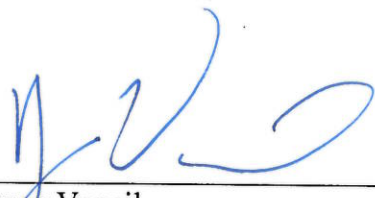
The Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA that incorporates the following condition recommended by the Director:

Prior to Issuance of a Master Use Permit

Development of the rezoned property shall be subject to the requirements of SMC 23.58.B. and/or 23.58.C. The rezoned property shall be subject to the provisions of SMC 23.47A.017 that apply to

NC zones with a mandatory housing affordability suffix. The PUDA shall specify the payment and performance calculation amounts for purposes of applying SMC 23.58.C.

Entered this 5th day of September, 2017.



Ryan Vancil
Deputy Hearing Examiner

Concerning Further Review

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

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

Seattle City Council
Planning, Land Use and Sustainability Committee
c/o Seattle City Clerk
600 Fourth Avenue, Floor 3 (physical address)
P.O. 94728 (mailing address)
Seattle, WA 98124-4728

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


BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached Corrected Findings and Recommendation to each person listed below, or on the attached mailing list, in the matter of Martin Liebowitz Rezone Application. Council File: CF 314325 in the manner indicated.

Party	Method of Service
Lish Whitson Lish.whitson@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

Dated: September 5, 2017



Alayna Johnson
Legal Assistant



SPRING ST. REZONE
SEATTLE, WA 98122

OWNER
MARTIN SQUARED LLC
3310 E. SPRING ST. SUITE #105
SEATTLE, WA 98122
TEL. 206.325.0422

ARCHITECT
MARTIN LIEBOWITZ
3310 E. SPRING ST. SUITE #105
SEATTLE, WA 98122
TEL. 206.325.0422

DATES OF RECORD

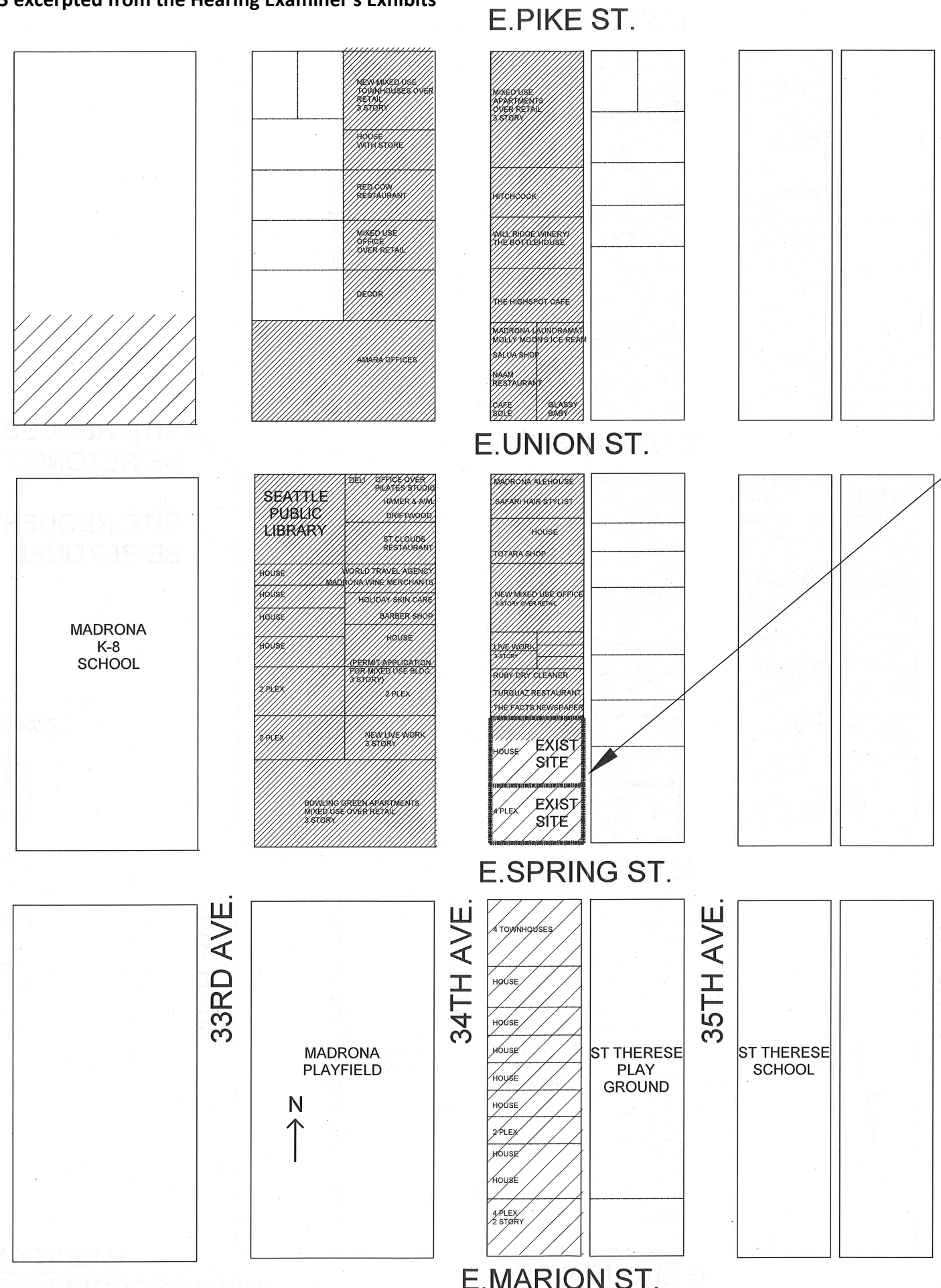
2015 APPLICATION
08-04-2015 PROJECT DPD INTAKE

REVISIONS

DPDPROJECT NO.:
3020405

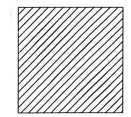
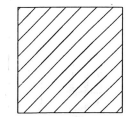
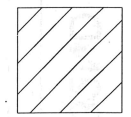
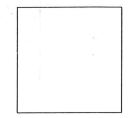
JURISDICTION
CITY OF SEATTLE

A1



SITES FOR
REQUESTED REZONE

ZONING KEY

-  NC1-30
-  LR-3
-  LR-2
-  SF 5000

VICINITY MAP
(WITH EXISTING ZONING)





SPRING ST. REZONE
SEATTLE, WA 98122

OWNER
**MARTIN SQUARED
LLC**
3310 E. SPRING ST. SUITE #105
SEATTLE, WA 98122
TEL. 206.325.0422

ARCHITECT
MARTIN LIEBOWITZ
3310 E. SPRING ST. SUITE #105
SEATTLE, WA 98122
TEL. 206.325.0422

DATES OF RECORD

2015 APPLICATION
08-04-2015 PROJECT DPD INTAKE

REVISIONS

DPDPROJECT NO.:
3020405

JURISDICTION
CITY OF SEATTLE

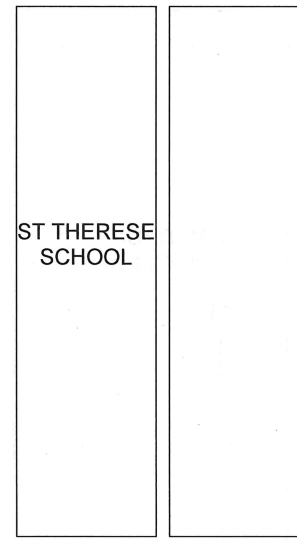
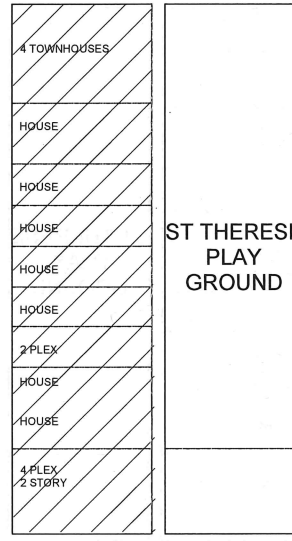
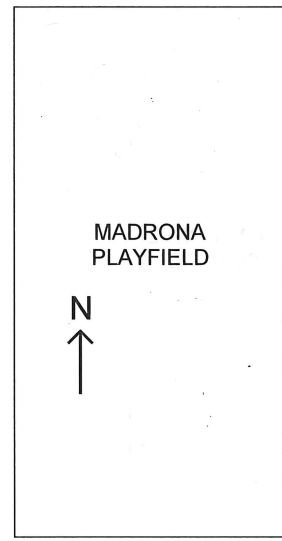
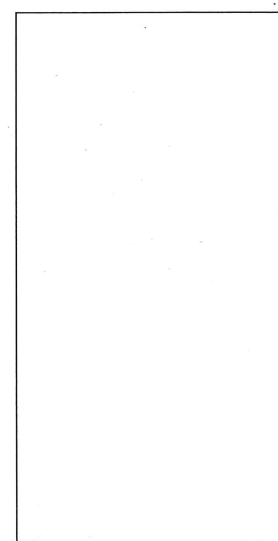
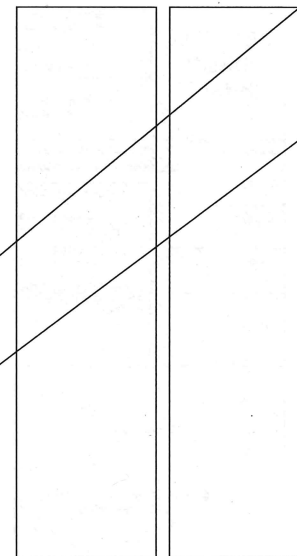
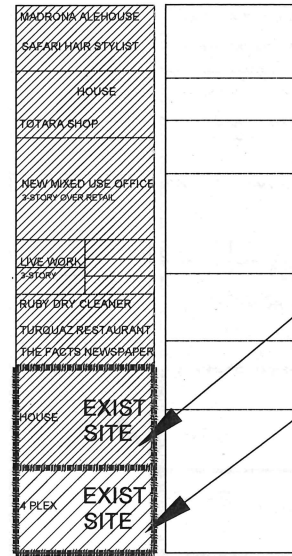
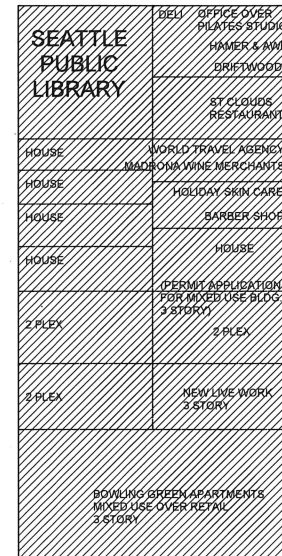
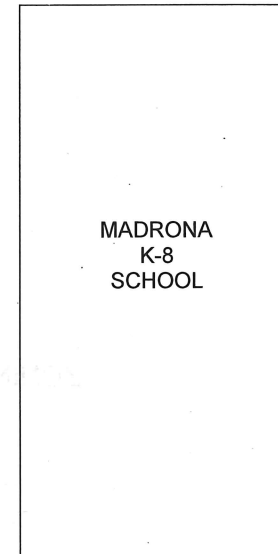
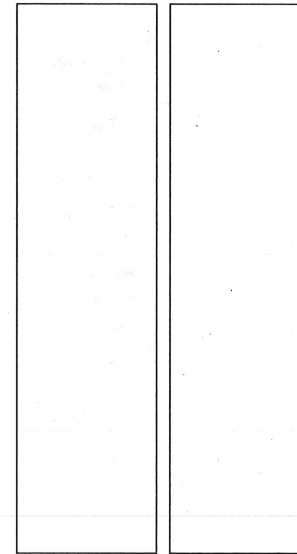
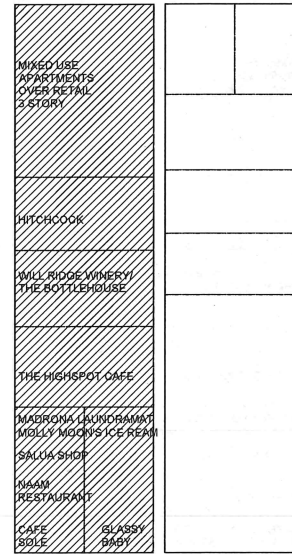
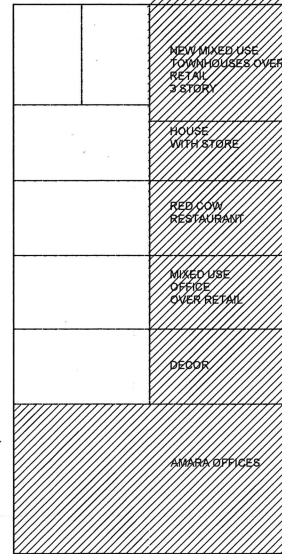
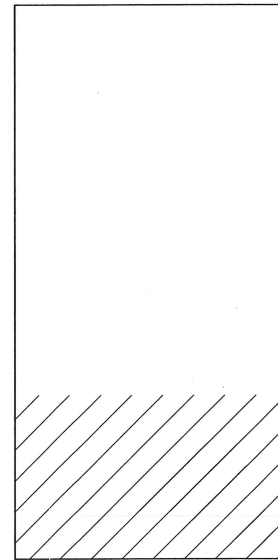
A2

E. PIKE ST.

E. UNION ST.

E. SPRING ST.

E. MARION ST.



36TH AVE.

SITE REQUESTED TO BE REZONED TO NC1-30

SITE REQUESTED TO BE REZONED TO LR-3

ZONING KEY



VICINITY MAP
(WITH PROPOSED ZONING CHANGE)





SPRING ST. REZONE
SEATTLE, WA 98122

OWNER
MARTIN SQUARED LLC
3310 E. SPRING ST. SUITE #105
SEATTLE, WA 98122
TEL. 206.325.0422

ARCHITECT
MARTIN LIEBOWITZ
3310 E. SPRING ST. SUITE #105
SEATTLE, WA 98122
TEL. 206.325.0422

DATES OF RECORD

2015 APPLICATION

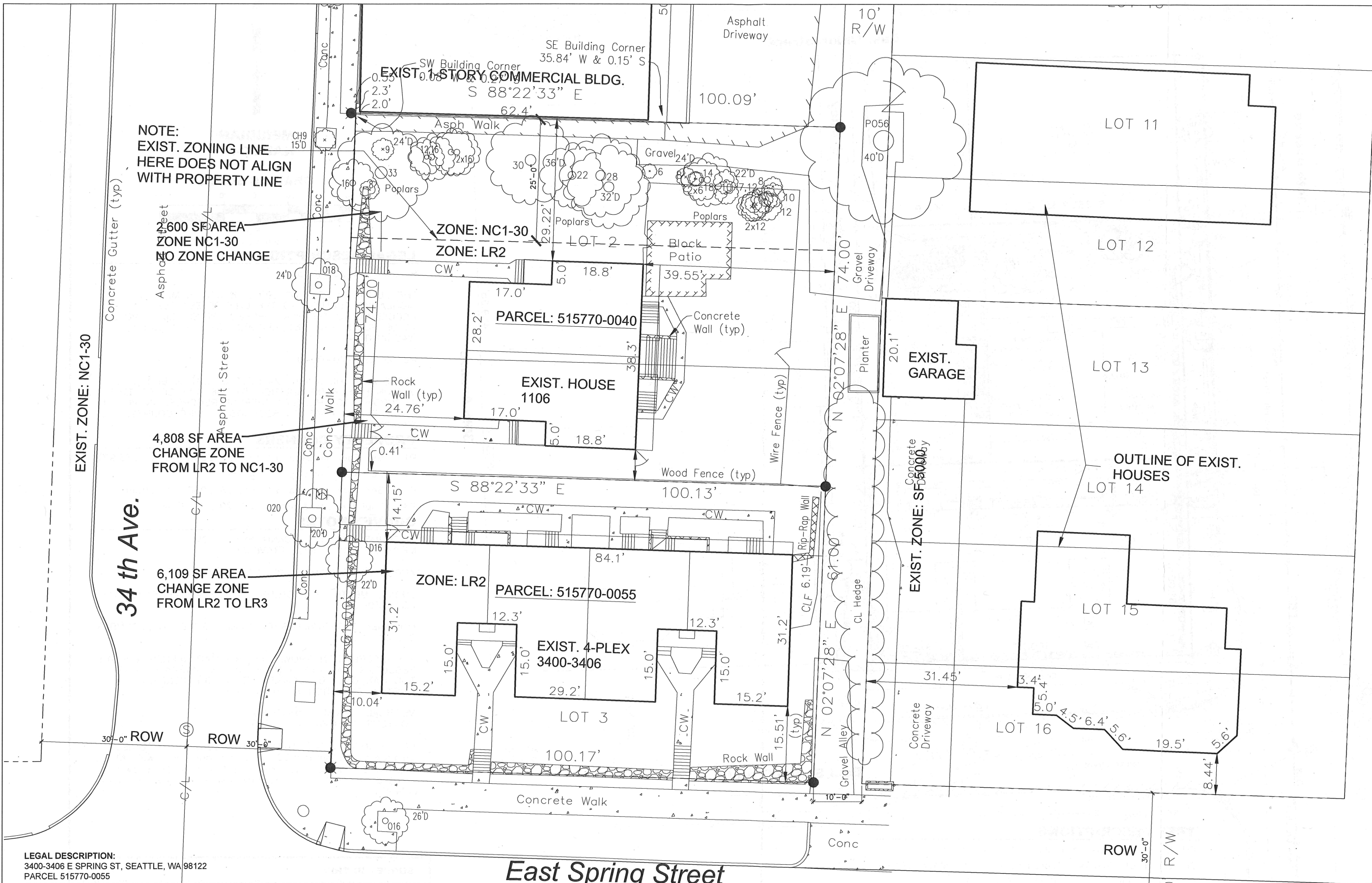
08-04-2015 PROJECT DPD INTAKE

REVISIONS

DPDPROJECT NO.:
3020405

JURISDICTION
CITY OF SEATTLE

A3



NOTE:
EXIST. ZONING LINE
HERE DOES NOT ALIGN
WITH PROPERTY LINE

2,600 SF AREA
ZONE NC1-30
NO ZONE CHANGE

4,808 SF AREA
CHANGE ZONE
FROM LR2 TO NC1-30

6,109 SF AREA
CHANGE ZONE
FROM LR2 TO LR3

EXIST. ZONE: NC1-30

34th Ave.

East Spring Street

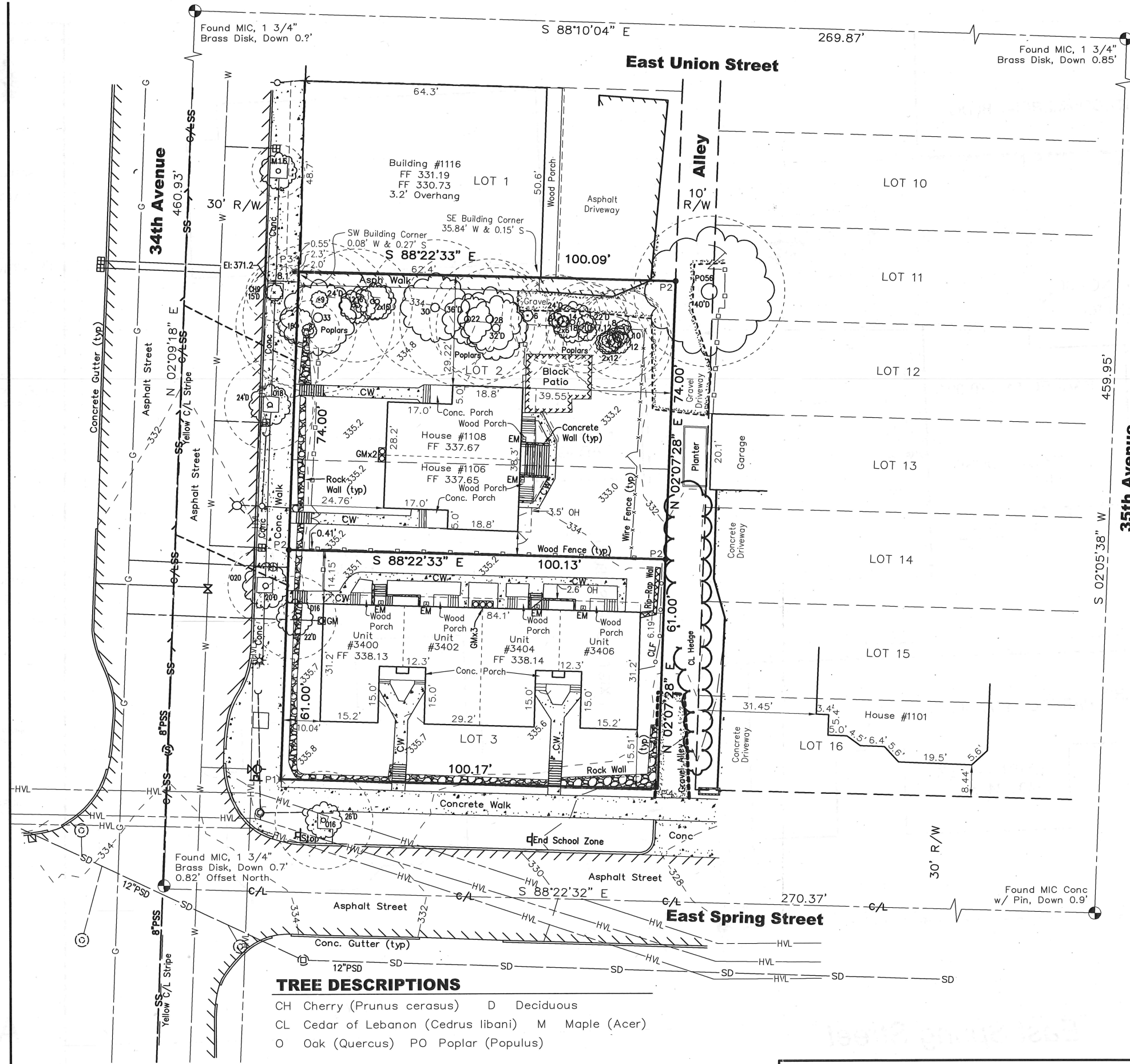
LEGAL DESCRIPTION:
3400-3406 E SPRING ST, SEATTLE, WA 98122
PARCEL 515770-0055
THE SOUTH 61 FEET OF LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE,
ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING
COUNTY, WASHINGTON.

1106 / 1108 34TH AVE., SEATTLE, WA 98122
PARCEL 525770-0040
LOT 2 AND THE NORTH 24 FEET OF LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF
SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS
OF KING COUNTY, WASHINGTON.

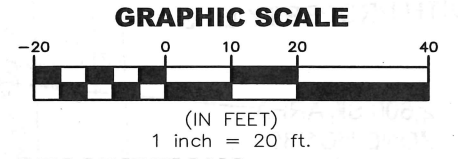
Project Name: 34TH AND SPRING
Site Address: 1106 34TH AVE, 3400 E SPRING ST.
DPD Project #: 3020405
Parcel #: 515770-0040, 515770-0055
PARCEL AREA: 13,517 SF
PROJECT OWNER: MARTIN SQUARED LLC

EXISTING PLOT PLAN
1"=10'-0"





**MERIDIAN
NAD 83-91**



LEGAL DESCRIPTIONS

Parcel: 515770-0055
 THE SOUTH 61 FEET OF LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON.

Parcel: 515770-0040
 LOT 2 AND THE NORTH 24 FEET OF LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON.

PROPERTY CORNERS

- P1 Set Tack in Lead w/ Tag, LS 30581 (Elev. 333.92)
- P2 Set Rebar & Cap, LS 30581
- P3 Set Tack in Lead w/ Tag, LS 30581, 1' Offset
- P4 Found Rebar & Cap, LS 13791, 0.02' W

SURVEY NOTES

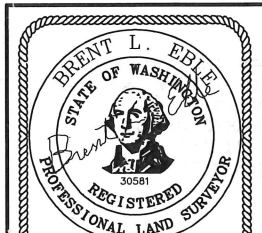
INSTRUMENT USED: SOKKIA SET 5 EDM
 METHOD USED: FIELD TRAVERSE
 APPROXIMATE POINT ACCURACY: ±0.05'
 SURVEY MEETS OR EXCEEDS STATE STANDARDS PER WAC 332-130-090.
 MONUMENTS SHOWN HEREON WERE VISITED ON DECEMBER 23, 2014.
 THE INFORMATION SHOWN ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON THE INDICATED DATE AND CAN ONLY BE CONSIDERED AS THE GENERAL EXISTING CONDITION AT THAT TIME.
 VERTICAL DATUM - NAVD 88
 CONTOUR INTERVAL - 2 FEET

BENCH MARK: POINT NAME: 3663-18B: Set 2" Brass Surface Cap stamped 2617, back seam conc. walk @ approx. C/L wheel chair ramp & 8.5' S of int bckw's located at the SW cor int 34th. Ave & E. Pike St. Elev. 324.472.

TREE DESCRIPTIONS

- CH Cherry (Prunus cerasus) D Deciduous
- CL Cedar of Lebanon (Cedrus libani) M Maple (Acer)
- O Oak (Quercus) PO Poplar (Populus)

SURVEY IN THE:
 S.W. 1/4, N.W. 1/4 SEC. 34 TWP. 25N., RGE. 4E., W.M.



TOPOGRAPHIC SURVEY
 Martin Liebowitz
 1106 34th Avenue & 3400 East Spring Street
 Seattle, WA 98122

DRAWN BY: HMM	SHEET 1
CHECKED: BLE	
PROJECT: 14782	OF 1
DATE:	

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at pages 113 and 114 of the Official Land Use Map to rezone property located at 1106 34th Avenue from Lowrise 2 to Neighborhood Commercial 1 with a 30-foot height limit and a Mandatory Housing Affordability suffix of (M), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Martin Liebowitz, C.F. 314325, SDCI Project 3020405)

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones the following legally described property (“the Property”) commonly known as 1106 34th Avenue:

THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON

Section 2. Pages 113 and 114 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016 is amended to rezone the Property described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Lowrise 2 (LR2) to Neighborhood Commercial 1 with a 30-foot height limit and a Mandatory Housing Affordability suffix of (M), resulting in a new designation of NC1-30 (M). Approval of this rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved in Section 3 of this ordinance.

Section 3. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

Section 4. The City Clerk is authorized and directed to file the PUDA approved in Section 3 with the King County Recorder’s Office; to file, upon return of the recorded PUDA from the King County Recorder’s Office, the original PUDA along with this ordinance at the

Attachment 4 – Draft Council Bill to amend the Official Land Use Map and approve and accept the executed PUDA

Lish Whitson
LEG 1106 34th Rezone ORD
D2

1 City Clerk’s Office; and to deliver copies of the PUDA and this ordinance to the Director of the
2 Seattle Department of Construction and Inspections and to the King County Assessor’s Office.

3 Section 5. This ordinance, effectuating a quasi-judicial decision of the City Council and
4 not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and
5 after its passage and approval by the City Council. .

6 Passed by the City Council the _____ day of _____, 2017,
7 and signed by me in open session in authentication of its passage this _____ day of
8 _____, 2017.

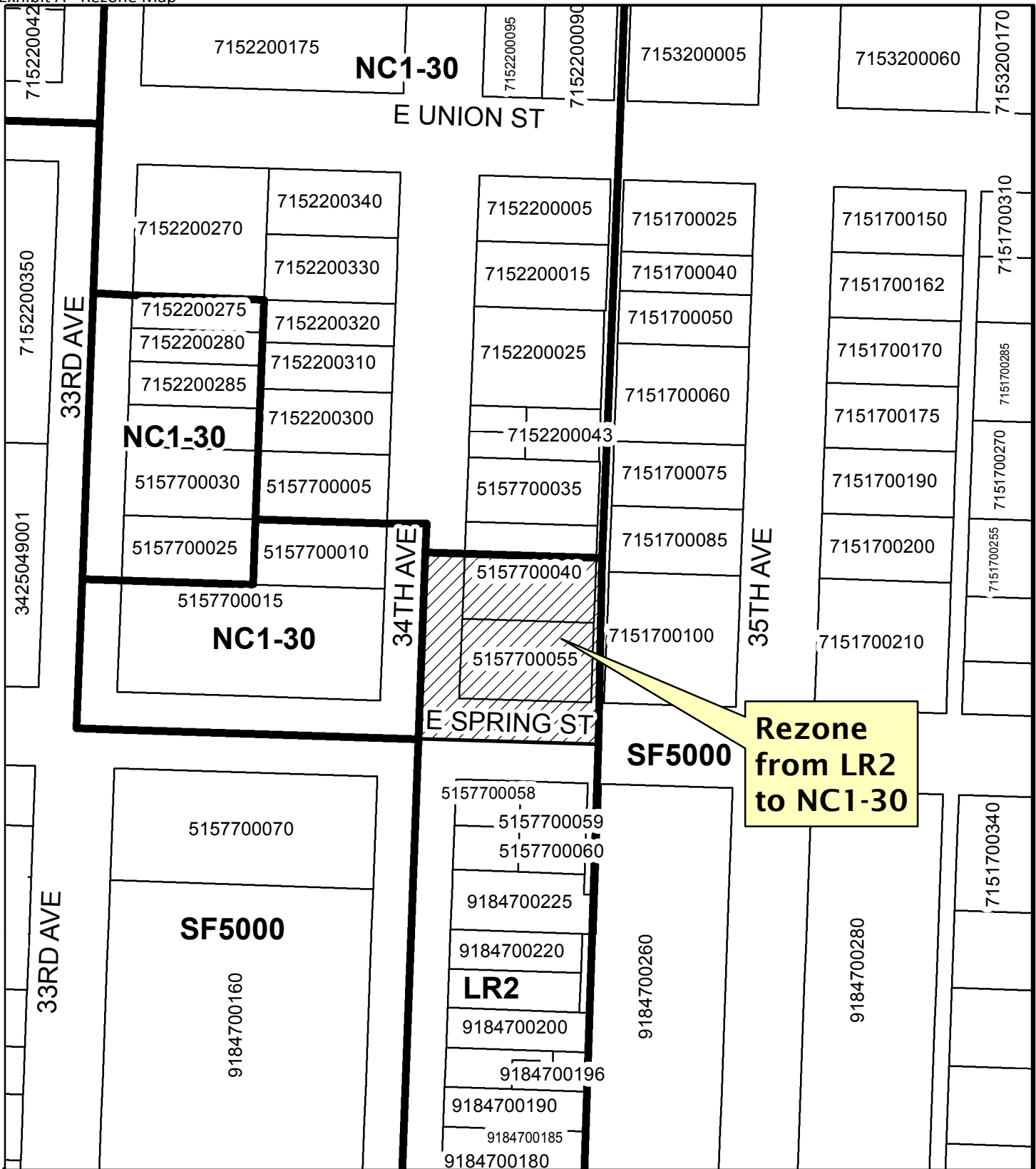
9 _____
10 President _____ of the City Council

11 Filed by me this _____ day of _____, 2017.

12 _____
13 Monica Martinez Simmons, City Clerk

14 (Seal)

- 15 Exhibits:
16 Exhibit A – Rezone Map
17 Exhibit B – Property Use and Development Agreement



Proposed Rezone
Clerk File 314325
DPD Project No. 3020405
1106 34th Avenue



Rezone Area

No warranties of any sort, including accuracy, fitness, or merchantability accompany this product. Copyright 2017. All Rights Reserved. City of Seattle, City Council. Prepared August 17, 2017 by Council Central Staff-GIS.



0 100 Feet



Attachment 4b - PUDA

Exhibit B: LEG 1106 34TH Ave Rezone PUDA

v1

August 18, 2017

Property Use and Development Agreement

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):	(1) Martin Liebowitz	(2) 34th and Spring LLC
<input type="checkbox"/> Additional grantors on page _____		
Grantee:	(1) The City of Seattle	
<input type="checkbox"/> Additional on page _____		
Legal Description <i>(abbreviated if necessary):</i>	THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON	
<input type="checkbox"/> Additional legal description on page _____:		
Assessor's Tax Parcel ID #:	5157700040 (part) and 5157700055	
Reference Nos. of Documents Released or Assigned:		

Attachment 4b - PUDA

Exhibit B: LEG 1106 34TH Ave Rezone PUDA

August 18, 2017

v1

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____th day of September 2017, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Martin Liebowitz and 34TH AND SPRING LLC, a Washington limited liability company (the "Owners").

RECITALS

A. The Owners are the owner of that certain real property (the "Rezone Area") in the City of Seattle zoned Lowrise 2 (LR2) shown in Attachment A and legally described as:

THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON

B. On December 10, 2016, the Owners submitted to the City of Seattle an application under Project No. 3020405 for a rezone of the Rezone Area from Lowrise 2 (LR2) to Neighborhood Commercial 1 with a 30 foot height limit (NC1-30). The purpose of the application is to allow the Rezone Area to accommodate commercial and residential uses, consistent with the adjacent zoning for the Madrona neighborhood commercial center north of Spring Street. No development proposal is associated with the rezone application.

C. Seattle Municipal Code 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" and restrictions applying the provisions of Chapters 23.58B and 23.58C to the property.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

AGREEMENT

Section 1. Agreement. Pursuant to Seattle Municipal Code Section ("SMC") 23.34.004, the Owners hereby covenant, bargain and agree, on behalf of themselves and their successors and assigns, that they will comply with the following conditions in consideration of the rezone of the Rezone Area from LR2 to NC1-30 (M):

Development of the Rezone Area shall be subject to the requirements of SMC Chapters 23.58.B and 23.58.C. For purposes of application of Chapter 23.58C, future development of the Rezone Area shall be subject to the following performance or payment requirements:

6% of units for the performance option or \$13.25 per square foot for the payment option.

Section 2. Agreement Runs With the Land. This Agreement shall be recorded in the records of King County by the City Clerk. The covenants hereof shall be deemed to attach to and run with the land and shall be binding upon the Owners, their heirs, successors and assigns, and shall apply to after- acquired title of the Owners of the Rezone Area.

Section 3. Termination of Zoning Designation.

The new zoning designation shall expire according to SMC 23.76.060.C, or if the rezone is revoked pursuant to SMC 23.34.004.

Section 4. Termination of Conditions.

The conditions listed in Section 1 of this agreement shall expire at such time as the rezone expires or is revoked pursuant to SMC 23. 34.004. If the rezone does not expire, these conditions shall remain in effect until amended or repealed.

Section 5. Amendment. This Agreement may be amended or modified by agreement between Owners and the City; provided, such amendments are approved by the City Council by ordinance.

Section 6. Exercise of Police Power. Nothing in this Agreement shall prevent the City Council from making such further amendments to the Seattle Municipal Code or Land Use Code as it may deem necessary in the public interest.

Section 7. No Precedent. The conditions contained in this Agreement are based on the unique circumstances applicable to the Rezone Area and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

Section 8. Repeal as Additional Remedy. Owners acknowledge that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners avail themselves of the benefits of this rezone but then fail to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may:

- a. revoke the rezone by ordinance and require the use of the Rezone Area to conform to the requirements of the previous LR2 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

[Signature Pages Follow]

SIGNED this _____ day of September, 2017.

OWNERS:

34TH AND SPRING LLC,
a Washington limited liability company

By: _____

Name: _____

Its: _____

By: _____

Martin Liebowitz

Attachment 4b - PUDA

Exhibit B: LEG 1106 34TH Ave Rezone PUDA

August 18, 2017

v1

STATE OF WASHINGTON

} ss.

COUNTY OF KING

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of 34th and Spring LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 20____.

Printed Name
Notary Public in and for the State of Washington,
residing at
My Commission Expires

STATE OF WASHINGTON

} ss.

COUNTY OF KING

I certify that I know or have satisfactory evidence that Martin Liebowitz is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this _____ day of _____, 20____.

Printed Name
Notary Public in and for the State of Washington,
residing at
My Commission Expires

ATTACHMENT A

Attachment A: Rezone Map

