

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

In the Matter of Application of

**BLAIR STONE/ENCORE  
ARCHITECTS,**

For a Rezone of Property at  
8601 Fremont Avenue N.

Hearing Examiner Files:  
**CF 314491**

Department Reference:  
3036119-LU

**FINDINGS OF FACT**

**1. Introduction.** Applicant Encore Architects has proposed a contract rezone from Neighborhood Residential 3 to Lowrise Residential 2 (M). The rezone would allow for two three-story apartment buildings with 53 affordable units and parking for 11 vehicles.

**2. Hearing.** A properly noticed public hearing<sup>1</sup> was held remotely and in person on January 14, 2025. The Seattle Department of Construction and Inspections (“Department”), through Greg Johnson, Sr. Planner, described the proposal and the rezone criteria. The Applicant, represented by Steven J. Gillespie, McCullough Hill, PLLC, appeared and called several witnesses. Susan Boyd, Bellwether Housing’s CEO, addressed how the project serves the mission of the applicant-in-fact, Bellwether Housing. Blair Stone, Principal with Encore Architects PLLC, the project architect, provided detail on the project’s design and fit with the surrounding area. Olin Johansen, Seattle Office of Housing, Capital Investments, detailed Office support for the project. No member of the public indicated a wish to testify.

**3. Testimony, Additional Detail.** Bellwether’s CEO, Susan Boyd, summarized past projects, including those similar to the one proposed. She noted the Applicant’s shared vision with the adjacent Boys and Girls Club and the project’s ideal location (a block from a park, near robust transit, near a library and in an area underserved by affordable housing).

Architect Blair Stone addressed zoning compatibility, noting that the proposed zoning and height (40 feet) fits within the neighborhood context, transitioning between the greater heights allowed in NC3 and the lower heights allowed in NR3. She noted that a large grocery store is within walking distance, Greenwood Park is a block away, and the project is adjacent to a Boys & Girls Club and near Greenwood Senior Center. Also, the site is on a neighborhood greenway street which promotes bicycling (the project provides parking for 58 bicycles) and is well served by bus connections. Ms. Stone also addressed architectural design, including building size, noting the buildings were shifted to create front yards, street trees are kept, and the massing approach was designed to integrate with the adjacent single-family (NR) zoning.

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<sup>1</sup> Exhibit 35; SMC 23.76.052(C). No concerns on notice were raised.

Mr. Gillespie, counsel for the Applicant, addressed the legal framework. He noted that the project's affordable housing exempted it from Design Review and residential projects are exempt from SEPA. Only the contract rezone is before the Examiner. He noted that LR3 zoning, which would allow more housing units than the proposed LR2 zone, is expected to be proposed later in the year. The Applicant's position is that either zoning designation is appropriate but it has moved forward with LR2 due to uncertainties on area-wide zoning timing. Mr. Gillespie reiterated that the site hits "so many policy goals," with the 53 affordable housing units being next door to the Boys & Girls Club, one block from a park, one block from high frequency transit, next to an Urban Village with a library and restaurants and fronting a neighborhood greenway with bicycle lanes.

**4. Exhibits.** The Department submitted Exhibits 1-32, with the Applicant adding Exhibits 33 and 34. All exhibits were admitted without objection. No written public comment was submitted to the Examiner. As the Department will likely be proposing an area-wide rezone which would encompass the site, the Applicant asked that the record be kept open until January 28, to allow for a condition to be submitted addressing this eventuality. Following the hearing, the public notice exhibit was re-numbered as Exhibit 35 and the Applicant and Department jointly submitted Exhibit 36, a condition to address the anticipated area-wide rezone. The Examiner visited the site on January 27. The visit provides context but is not evidence.

**5. Site.** The site is a flat, rectangular-shaped parcel, with no environmentally critical areas, located outside the City's shoreline areas, mid-block on Fremont Avenue N between N 87<sup>th</sup> and N 85<sup>th</sup> (a principal arterial street). The Boys and Girls Club is adjacent to the north and its recreational field occupies the site. The site is now zoned NR3, which is also to the north, east, and west, with Neighborhood Commercial 3 – with a 55-foot height limit to the south (NC3-55 (M)). LR3 (M) and LR2(M) zoning is a half block to the southeast. The site is not in an urban center or village.

**6. Design.** The rezone is coupled with a development project designed to fit with the surrounding neighborhood. The Fremont right of way separates the project from single-family development to the east. The project incorporates:

- Sloped roofs to provide a roof pattern generally consistent with those of single-family dwellings.
- Modulated building massing along Fremont Avenue N frontage to reduce appearance of bulk.
- An overall height of 40-feet, compatible with the 35-foot height limit for single-family dwelling in the existing NR3 zone.

**7. Written Public Comments.** No public comments were submitted directly to the Examiner. Earlier comments to the Department focused on losing the Boys & Girls Club playfield. The Applicant noted that this is a private field, a public park (Greenwood Park) is a block north, and the Boys & Girls Club is a partner in the project. Several comments supported the project, others raised concerns on affordability (possibly not realizing all units will be affordable), and there was some concern on the limited parking provided.<sup>2</sup>

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<sup>2</sup> Exhibit 3.

**8. Department Review.** The Department recommended approval with conditions. To the extent consistent with this Recommendation, the Department's staff report is incorporated as supplemental findings.<sup>3</sup>

## CONCLUSIONS OF LAW

**1. Jurisdiction.** The Hearing Examiner has jurisdiction to issue a recommendation on the rezone, while the Council makes the final decision.<sup>4</sup>

**2. Criteria, Summary.** Criteria for assessing a site-specific rezone request are at SMC 23.34.004 (contract rezones), 23.34.006 (MHA suffixes), 23.34.007 (rezone evaluation), 23.34.008 (rezone criteria), 23.34.009 (height limits), 23.34.010, .011 (NR designations), 23.34.012 (NR Small Lot), 23.34.013 (multi-family designations), and 23.34.014, .018, and .020 (LR designations). Despite the considerable amount of overlapping criteria, key considerations are zoning compatibility with the neighborhood and land use planning for the area.

**3. Contract Rezone, SMC 23.34.004.** As this is a contract rezone, a Property Use and Development Agreement, or PUDA, will be executed and recorded.<sup>5</sup> The code details payment and performance requirements.<sup>6</sup> The PUDA should include conditions requiring property development to substantially conform with the approved Master Use Permit #3036119-LU plans. Should the site be later upzoned as detailed at hearing, revisions should be allowed.

**4. "M" Suffix: Mandatory Housing Affordability, SMC 23.34.006.** With the proposed zoning, the site is subject to MHA requirements at SMC 23.58B and/or 23.58C. The existing zoning does not contain an "M" suffix but the site would with the proposed zoning.<sup>7</sup> As zoned capacity would increase by a single category, the M1 suffix applies.<sup>8</sup> The development is for 100% affordable units, so exceeds MHA requirements.

**5. Rezone Evaluation, SMC 23.34.007.** Applicable sections of Ch. 23.34 SMC on rezones are weighed and balanced together to determine the most appropriate zone and height designation.<sup>9</sup> Zone function statements are used "to assess the likelihood that the area proposed to be rezoned would function as intended."<sup>10</sup> "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...."<sup>11</sup> 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."<sup>12</sup>

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<sup>3</sup> Exhibit 1.

<sup>4</sup> SMC 23.76.004(C); SMC 23.76.004, Table A.

<sup>5</sup> SMC 23.34.004.

<sup>6</sup> See e.g., Ch. 23.58B and .58C SMC.

<sup>7</sup> SMC 23.34.006.

<sup>8</sup> SMC 23.34.006; see also Director's Rule 14-2016.

<sup>9</sup> SMC 23.34.007.

<sup>10</sup> SMC 23.34.007(A).

<sup>11</sup> SMC 23.34.007(B).

<sup>12</sup> SMC 23.34.008(B).

**6. Match Between Zone Criteria and Area Characteristics, SMC 23.34.008(A) and (B).** The proposal is a good fit within the area. The LR2 designation meets functional and locational criteria. The affordable housing project supports the surrounding neighborhood and larger community. The project promotes pedestrian activity with access to transit and urban services and amenities. The site is separated from lower density residential areas by physical edges, including right-of-way, building spacing with respect to the right-of-way (staggered front yard areas), design (including height compatible with surrounding uses and gabled roofing), and site location. LR3 area-wide zoning is expected to be reviewed by the Council later this year and would likely also be appropriate for the site.

**7. Neighborhood Plan/Precedential Effect, SMC 23.34.008(C) and (D).** The site has been zoned for single-family uses since annexation into the city, but over the years the area has increasingly moved toward a more integrated, denser neighborhood proximate to transit and urban services. The Greenwood-Phinney Neighborhood Plan provides for high quality development supported by services, which is compatible with existing use, scale, and character, and promotes a range of housing types, including smaller affordable housing units. The project includes 53 low-income multi-family units and the design uses gabled roofing, modulated building massing along Fremont Avenue N frontage to reduce appearance of bulk and provides for a 40-foot height to mesh with the NR3 zone's 35-foot single family residence height limit.

**8. Zoning Principles, SMC 23.34.008(E).** The proposed LR2 zoning provides an appropriate transition between surrounding zoning and uses. The site is adjacent to NC3-55 (55-foot height limits) and NR3 zoning, with its 35-foot height limits for residences. The LR2 zoning, with the 40-foot overall height is an appropriate transition. The planned uses are appropriate for the context. The existing Boys and Girls Club, which next door on the project's north side, is the only immediately surrounding non-residential use. Other existing uses are residential, consistent with the use and zoning proposed, and surrounding zoning.

**9. Impact Evaluation, SMC 23.34.008(F).** The rezone meets the compatibility standards for the surrounding neighborhood. Housing capacity is increased and the project will be adequately supported by public services and infrastructure, including pedestrian amenities and sidewalks. There is adequate street access, street capacity, transit, utility, and sewer capacity. The project is consistent with area aesthetics and does not adversely impact environmental conditions. It positively contributes to the need for affordable housing. No market-rate housing is provided. 11 parking spaces are on site, though demand was estimated at 27. The unmet need was determined to be adequately met through overflow parking.

**10. Changed Circumstances, SMC 23.34.008(G).** Changed circumstances are considered but need not be demonstrated. The area has seen increasing density and heights and denser housing to accommodate housing needs. The site is adjacent to the Greenwood-Phinney Ridge Residential Urban Village, which is expected to be proposed for expansion to include the project site.

**11. Overlay Districts and Critical Areas, SMC 23.34.008(H) and (I).** The site is adjacent to the Greenwood-Phinney Ridge Residential Urban Village but is not yet incorporated into an overlay district. There are no on-site critical areas.

**12. Heights, SMC 23.34.009.** The project's height is consistent with LR2 zone function, which supports pedestrian oriented residences compatible with the area. The modest 40-foot height proposed follows area topography and will have limited view impacts. The rezone and project include setbacks coupled with height and scale transitions. The increase is compatible with the surrounding area, including land use plans for the area.

**13. NR1, NR2, and NR3 Designations, SMC 23.34.010, .011.** The site and surrounding area do not meet the locational criteria for an NR designation. Percentages of single-family structures on adjacent blocks are generally less than 70%, when measured by block frontage length and accounting for actual use, including open space and undeveloped land.<sup>13</sup> The Greenwood/Phinney Ridge Neighborhood Plan does not specifically identify the site as appropriate for single-family residential uses and the area surrounding the site has not had an increasing trend toward single-family uses over the last five years.

**14. Neighborhood Residential Small Lot, SMC 23.34.012.** The RSL criteria encourage separation from major arterial streets and frequent transit service, implying these areas may be more suitable for multi-family uses. The site is within a frequent transit service area and within a half-block of a major arterial street, so is not the best fit for an RSL designation.

**15. Multifamily Designations, SMC 23.34.013.** Rezoning an NR site to multi-family is based on SMC 23.34.010.B, which provides for location within an urban village, which is not the current condition.

**16. LR Designation, SMC 23.34.014, .018, .020.** The site, just outside an urban village, fronts on a local street characterized by a mix of housing types, including single-and-multi-family structures and is proximate to community and retail services. Aside from being a half-block north of a principal arterial street, the surrounding area is suited for local access and circulation. The LR1 designation is not the ideal fit as the site and immediate area are transitioning away from single-family character. Also, the proximity of a principal arterial street (N. 85<sup>th</sup> Street) makes the site more suitable for an LR2 designation. The LR1 zone would provide a bulk and scale transition between the adjacent NR and NC zones but the maximum permitted height in LR1 is the same as in the NR zones. The slightly higher LR2 height would provide better transitioning.

LR2 is also a better fit given site adjacency to the Greenwood-Phinney Ridge Residential Urban Village. Nearby structures within the Village are generally comparable in height to nearby single-family dwellings but a number have much larger footprints. With its building height and floor-area-ratio (FAR) maximums in between those of the adjacent NR and NC zones, LR2 provides a gradual transition. The site is well supported for LR2 uses from a transportation perspective, and by urban services, including community centers, a public park, and good pedestrian access. For similar reasons, LR3 is also appropriate, but the site is not yet within an urban center, urban village or station area overlay district. If the adjacent Greenwood-Phinney Ridge Residential Urban Village expands to include the site, LR3 may be the better zone.

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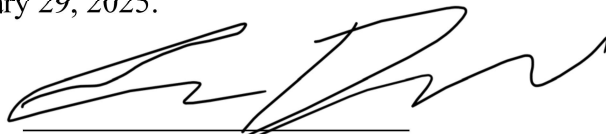
<sup>13</sup> For detailed analysis, see Exhibit 4 (Rezone Analysis), pp. 26-28.

**17. Conclusion.** Considering Ch. 23.34 SMC criteria together, the most appropriate zone designation for the site is LR2 (M), with a PUDA. With the proposal's additional affordable housing and pedestrian oriented focus, and design, this zoning would better fulfill Comprehensive Plan objectives for the area. LR3 zoning may also be appropriate but this will require legislative evaluation.

### RECOMMENDATION

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

Entered January 29, 2025.

A handwritten signature in black ink, appearing to read 'S. Drummond', written over a horizontal line.

Susan Drummond, Deputy Hearing Examiner

**Attachment 1**  
**Recommended Conditions**  
**Contract Rezone**

**These conditions should be contained in the PUDA:**

Prior to Issuance of a Master Use Permit

1. The rezone includes a Mandatory Housing Affordability designation of M1.
2. 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 Chapter 23.58B and/or 23.58C

Prior to Issuance of a Building Permit

3. Plans shall be in substantial conformance with the approved plans for Master Use Permit number 3036119-LU, provided that, should the City Council adopt legislation that implements a zoning designation for the site with higher development capacity than LR2, the Applicant may revise its proposal to fully conform with the later-adopted zoning designation.

### 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, a person who submitted comment to the Department or 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  
Physical Address: 600 Fourth Avenue, Floor 3, Seattle, WA 98104  
Mailing Address: P.O. Box 94728, Seattle, WA 98124-4728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Review code language for exact language and requirements, which are only summarily described above. 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 **FINDINGS AND RECOMMENDATION** to each person listed below, or on the attached mailing list, in the matter of **BLAIR STONE**. Case Number: **CF-314491** in the manner indicated.

Party	Method of Service
<b>Applicant</b>  Blair Stone blairs@encorearchitects.com	<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"/> Hand Delivery <input type="checkbox"/> Legal Messenger
<b>Applicant Legal Counsel, McCullough Hill PLLC</b>  Steve Gillespie steve@mhseattle.com	<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"/> Hand Delivery <input type="checkbox"/> Legal Messenger
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Dated: January 29, 2025.

/s/ Angela Oberhansly  
Angela Oberhansly, Legal Assistant