

**Johnson, Alayna**

City of Seattle  
Hearing Examiner Exhibit

Applicant	ADMITTED ✓
Department	DENIED
Public	

FILE # CF-314356

53

**From:** Esther Bartfeld <ebartfeld@comcast.net>  
**Sent:** Friday, April 27, 2018 1:33 PM  
**To:** Examiner, Hearing  
**Subject:** Comments for CF314356, proposed contract rezone of 7009 Greenwood (for Hearing 4.30.18)  
**Attachments:** 7009, comments for revised application 3.18.18.pdf

Dear Hearing Examiner Vancil:

In advance of the public hearing on Monday April 30, 2018 on the proposed contract rezone of 7009 Greenwood Ave N in the Phinney Ridge neighborhood, I want to provide you with the comments I had submitted to SDCI during the comment period before their revised Recommendation was issued. These comments explain in detail why a contract rezone of this parcel should be denied. Although SDCI, unfortunately, ignored these comments, they are relevant to your review as you consider whether to approve SDCI's recommendation.

I assume you have been informed that SDCI issued its initial recommendation in January 2018 when the applicant had proposed to rezone the commercial lots from NC2-40 to NC2-65, "self-limited" to 55 feet. That application was then withdrawn and resubmitted in February 2018 as a proposal to rezone to the not-officially-developed "NC-55(M)" zone, but without any other changes. SDCI again accepted public comments and then issued an almost verbatim recommendation / decision on April 9, 2018 that is the subject of the hearing on April 30th.

For the 7009 project, the applicant has acquired 4 parcels on the northwest corner of Greenwood Ave N and N. 70th street: two parcels that are in the single family zone and two that are in the NC 2-40 zone and proposed for upzoning. The 7009 proposal is, in essence, a request to pluck out a uniquely large commercial parcel (12,185 combined square footage of the NC2-40 parcels proposed for uponing) in an otherwise uniformly-zoned area and upzone it to accommodate a grand, oversized building envisioned as the future homes of the owners/developers who have reserved the top two floors of this building for themselves.

The project site is in the southern part of the one-mile "tail" of the Greenwood / Phinney Urban Village. This area of Phinney Ridge has always been zoned uniformly and, in fact, the nearest NC2-65 zone does not occur until 15 blocks north of the subject property at Greenwood Avenue on the north side of N. 84th street in the Greenwood Town Center area. You can see this zoning on maps 39 and 40 of the official Seattle Land Use Map. There is nothing unique about the 7009 parcel that justifies a contract rezone.

Moreover, it is abundantly clear that the potential of MHA upzoning of all NC2-40 areas in the city is being used to justify this rezone request. Indeed the applicant argued this point as a "changed circumstance" on page 15 of its application. SDCI confirmed that as well in its January 16, 2018 Recommendation / Decision under its analysis of SMC 23.34.008.G (Changed Circumstances). See page 36 "[T]he City is proposing requirements, area-wide zoning map changes, . . . modifications to development standares and other actions to implement [MHA] requirements for multifamily and commercial development in certain areas which includes the rezone site."

Curiously, in its April 9, 2018 Recommendation, SDCI now claims that there "is no evidence of changed cixrcunstances in consideration of this rezone proposal." See p36 analysis of SMC23.34.008.G. Throughout its Recommendation, however, SDCI makes abundantly clear that this site and the surrounding area are proposed

for MHA upzoning, and that this proposed change factors into its decision. Its superficial reversal is, therefore, disingenuous.

My comments below detail the myriad ways in which this project fails to meet the rezone criteria in the Code and why granting a rezone here would open the floodgates for developers to seek contract rezones throughout the City using the potential for MHA upzoning as justification. I am not aware of any contract rezone that has been granted where there are no parcels anywhere in the surrounding area that are at or near the proposed rezone height or intensity. Indeed if this rezone is granted, what would prevent the owners of the controversial Phinney Flats project right across the street from seeking to rezone that parcel to 5 stories? Recall that the Phinney Flats project (6726 Greenwood Ave) was the subject of a multi-day hearing in your chambers where you reversed several of SDCI's code interpretations). And why wouldn't every developer seek to rezone their NC2-40 property instead of waiting to see if, when, and how the proposed MHA 55-foot zones materialize?

I hope to present additional testimony at the hearing on April 30th, but wanted to send in something in advance to give you a different perspective on what is actually going on with this proposal. The SDCI decision, unfortunately employs a lot of sleight-of-hand, obfuscation, and inaccurate and misleading statements regarding the zoning of parcels surrounding the 7009 site, the alleged transitions between this proposal and the adjacent single family zone at the rear, and the alleged justification for recommending this rezone.

Thank you in advance for your careful analysis of the Land Use Code as it applies to this project.

Sincerely,  
Esther Bartfeld  
Phinney Ridge resident

Begin forwarded message:

**From:** Esther Bartfeld <[ebartfeld@comcast.net](mailto:ebartfeld@comcast.net)>  
**Subject:** comments on 7009 Greenwood contract rezone (#3023260)  
**Date:** March 19, 2018 at 5:36:49 AM PDT  
**To:** [PRC@seattle.gov](mailto:PRC@seattle.gov)  
**Cc:** "Garrett, Tami" <[tami.garrett@seattle.gov](mailto:tami.garrett@seattle.gov)>

Please find enclosed my comments on the proposed contract rezone for 7009 Greenwood (#3023260), urging SDCI to NOT RECOMMEND APPROVAL of this contract rezone.

Thank you for your consideration of these comments.

-Esther Bartfeld  
Phinney Ridge

P.O. Box 31932  
Seattle, WA 98103  
March 18, 2018  
VIA EMAIL

Dear SDCI:

Please consider these comments when you re-evaluate the proposed contract rezone of the 7009 Greenwood to the currently undefined "NC55" zone (Proj. No. 3023260). This letter is to urge you to **NOT recommend approval of the proposed contract rezone for 7009 Greenwood Ave N in the Phinney Ridge neighborhood.**

This project fails to meet the criteria for a rezone in SMC 23.34.008, 009, as described below. And, because it is located in the middle of a consistently-zoned area without any unique or special characteristics that might otherwise support a rezone, a recommendation to approve this rezone would render the Code criteria meaningless and open the floodgates to contract rezones everywhere. The NC55 zone has not yet been fully defined. In the few neighborhoods where it is in effect, those communities negotiated special setbacks or other features tailored to their communities. Phinney Ridge should have that same opportunity before a massive five story building is planted on one of the largest commercial parcels in the area. Moreover, the Council is still holding meetings throughout the City to help shape the final MHA legislation, and the environmental analysis is tied up in litigation. Under these circumstances, there is no reason to approve this project at this time. The lack of an existing, fully defined NC55 zone, alone, should cause SDCI to reject this proposed contract rezone, notwithstanding its earlier recommendation in support.

This proposal not only fails to meet the rezone criteria, but also violates numerous setback requirements in SMC 23.47A.014 with a five-story building built right on the property line where the Code requires a 15-foot setback above the 1<sup>st</sup> floor, with an increasing setback back above 40 feet. In addition to violating current Code requirements, it violates the letter and spirit of the proposed MHA legislation. The Director's report on the proposed MHA legislation specifically highlighted Phinney Ridge in its recommendation to increase the rate of setback in buildings over 40 feet to allow for greater separation to the adjacent single family zone. So why should SDCI recommend approval of this rezone when four floors will be built right on the property line of the abutting SF zone, and the fifth floor has only a minimal setback when MHA would require that a building of this height be setback almost 20 feet at the top?.

#### **I. THE PROJECT DOES NOT MEET THE REQUIREMENTS FOR A REZONE**

SMC 23.34.008 and .009 details the general rezone criteria, and this proposed rezone fails on all accounts.

SMC 23.34.008.C - Zoning History and Precedential Effect: Everything in the Phinney Ridge portion of the Greenwood / Phinney urban village is zoned NC2-40. **There are no NC2-65 parcels anywhere in the vicinity of this project.** The closest NC2-65 parcels are 15 blocks away at 85<sup>th</sup> and Greenwood in the Greenwood Town Center, an entirely different area. This parcel is located in the “tail” of the Greenwood / Phinney Urban Village, a parcel that does not meet any of the criteria of an urban village, should never have been included as an urban village, and likely will see increasing calls to remove that designation going forward. Given that there is nothing unique about this parcel (other than its size) that justifies singling it out for rezone, the precedential effect of a rezone here would be disastrous for Phinney Ridge and throughout the City. The MHA legislation hasn’t even been finalized. How can SDCI know if it is approving a project that would be consistent with the criteria of the future NC55 zone and / or that zone as applied in Phinney Ridge? If this rezone is approved, how could SDCI deny any proposed rezone to NC55? Given that the environmental analysis of MHA is tied up in litigation, it could be years before MHA is implemented (or perhaps not at all in its current form or scope), Will the City simply be upzoned parcel-by-parcel through contract rezone while MHA is being considered, defined, and litigated?

SMC 23.34.008.D Neighborhood Plans: The Phinney Ridge neighborhood plan does not anticipate 55-foot, 5 story buildings (70 feet in this case with the greenhouse) built on the shared property line of the single family zone.

SMC 23.34.008.E - Zoning Principles: The west boundary of the parcels proposed for rezone is a single family zone. It is irrelevant that the applicant also owns the abutting SF parcels. The proposal violates the requirement for a “gradual transition between zoning categories, including height limits.” **There is NO TRANSITION.** The application deceptively claims an alleged 55-foot “buffer” all along the west boundary. This is not accurate as the 7010 Palatine house (part of the so-called development site) is closer than 55 feet to its rear property line. Regardless, the Code requirement is a transition between ZONES not a measurement of grass. The zoning line is the west property line of the commercial parcels proposed for rezone, the proposal here is for a five-story building built right on the property / zoning line with the single family zone. This is not a “gradual transition,” it is a 55 –foot wall.

Look at Site Plan drawings A100-205 and you will see the zoning line and the building right on the line for floors 1-4; the minimal 4-6 foot setback for the fifth floor, except the SW corner which is built right on the line. And, at drawing A206, you will see the 15-foot greenhouse on top of the 55-foot roof, approximately 12-feet from the property / zoning line, and within the required setback. Look at the site

plan at 310), West elevation. That is the building as viewed from the single family zone, and built ON THE LINE dividing the NC from the SF zone.

**SMC 23.34.008.G Changed Circumstances. There are no changed circumstances to warrant this rezone.** The fact that some day in the future, the City may decide to impose a NC55 zone is not a reason to rezone this parcel now. The MHA process should play out entirely so that careful consideration is given to what the NC55 zone will look like and where it will be imposed. Upzoning to a zone that has not been fully defined is irresponsible. Moreover, the applicant may claim it is adhering to the MHA proposals for affordable housing, but it is flouting the MHA requirements for setbacks from adjacent single family zones. The proposed MHA legislation requires that mixed use buildings adjacent to single family zones be setback 15 feet above the first 13 feet height, up to 40 feet height, and then an increasing setback of 3 feet per 10 feet of height. The Director's Report on MHA specifically highlighted Phinney Ridge as a reason why the proposed MHA legislation increases this above-40-foot setback. Given that callout, why would SDCI recommend approval of this building in Phinney Ridge that not only violates that aspect of MHA, but violates the existing setbacks as well?

**SMC 23.34.009 – Height limits of the proposed rezone: This project fails to satisfy the additional requirements for increased height.** This parcel sits on top of Phinney Ridge and the visual impacts of upzoning this parcel prematurely would be seen for miles. The only other building of similar height on the Ridge – the massive Norse Home at 55<sup>th</sup> and Phinney that was built before the current zoning code imposed the present height limits – is easily visible from the Ballard Bridge, and looms over the houses downhill to the west. Similarly, allowing this oversized commercial parcel to be rezoned prematurely will create massive, hulking structure looming not only over the commercial area of Phinney Ridge, but over the single family neighborhood to the west for several blocks..

## **II. THE PROPOSED BUILDING VIOLATES THE SETBACK REQUIREMENTS OF SMC 23.47A.014B.**

This proposal violates numerous provisions of SMC 23.47A.014, which requires setbacks for mixed use commercial buildings that abut a single family zone.

The parcel map attached to these comments shows the north/ south zoning line that divides the block between Greenwood and Palatine between 70<sup>th</sup> and 72<sup>nd</sup>. All parcels on Greenwood are zoned NC, all parcels on Palatine are zoned SF. The proposed building is built right on the property line for four stories, with a minimal setback at most (but not all) of the fifth floor. This placement violates the following Code provisions:

1. SMC 23.47A.014.B.1 requiring a 15-foot triangular setback when the commercial parcel abuts the intersection of a side lot line and front lot line of a SF parcel (this occurs on N. 70<sup>th</sup> in the area where the driveway is located).

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2. SMC 23.47A.014.B.3., requiring a setback of 15 feet for portions of structures above 13 feet in height up to 40 feet, and an additional setback at the rate of 2 feet per 10 feet of height above 40 feet,

3. SMC 23.47A.014.B.5, prohibiting an entrance, window, or other opening closer than 5 feet to an abutting SF lot.

The site plan drawings at A100 – A206, and G006.1 show these violations, and the west and south elevation drawings on Site Plan page A310 show the visual impact of these violations.

Evidently the applicant claims this is all one “development site” since it acquired the abutting single family parcels and therefore these setback requirements shouldn’t apply. But that conclusion is nowhere in the Code, and to the contrary, it is undermined by SDCI’s TIP 247 (“Development Sites”), which requires lot boundary adjustments to combine separate lots into a single development site. This project has four separate and discreet tax parcels: two zoned NC and proposed for rezone, and two zoned SF, one vacant and one with an old Craftsman home. These are four lots and SMC 23.47A.014 requires setbacks when commercial lots abut a lot in a single family zone. There are no exceptions for common ownership, and SDCI should not be fooled by this stunt.

Also, since only the commercial parcels are proposed for rezone, a PUDA would only apply to those parcels. The applicant could sell off the SF parcels at a later date after building an oversized building right on the property line using this so-called “development site” stunt. But even if they didn’t sell, a five story building right on the property line steals the light and air open space that would otherwise stretch for this entire block

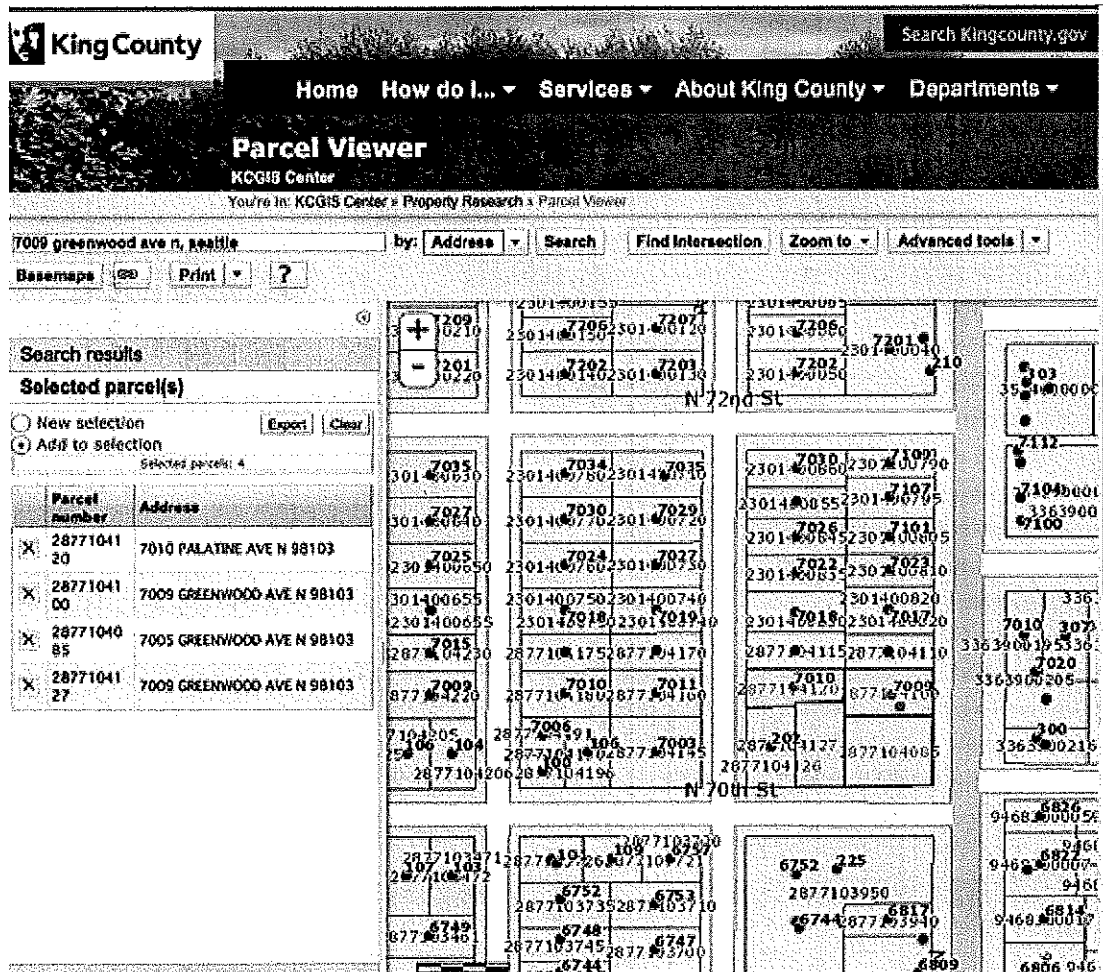
Note also that SDCI’s initial approval of this project contained several material errors such as claiming that (1) the proposed development would be consistent with the predominant height and scale of nearby newer development when not a single parcel for at least 15 blocks is either zoned for or built to anything higher than allowed in NC40 zone; (2) a gradual transition to NC2-40 parcels to the west exists, when everything to the west is SF right along the shared rear property line and the five-story building is built right on the line; and (3) the zone edge of the upzoned parcel would be “in proximity” to the SF zone when it would really be at the SF zone along the rear boundary. Please spend some time in our neighborhood and you will see that this project should not be recommended for rezone.

Thank you for your consideration of these comments.

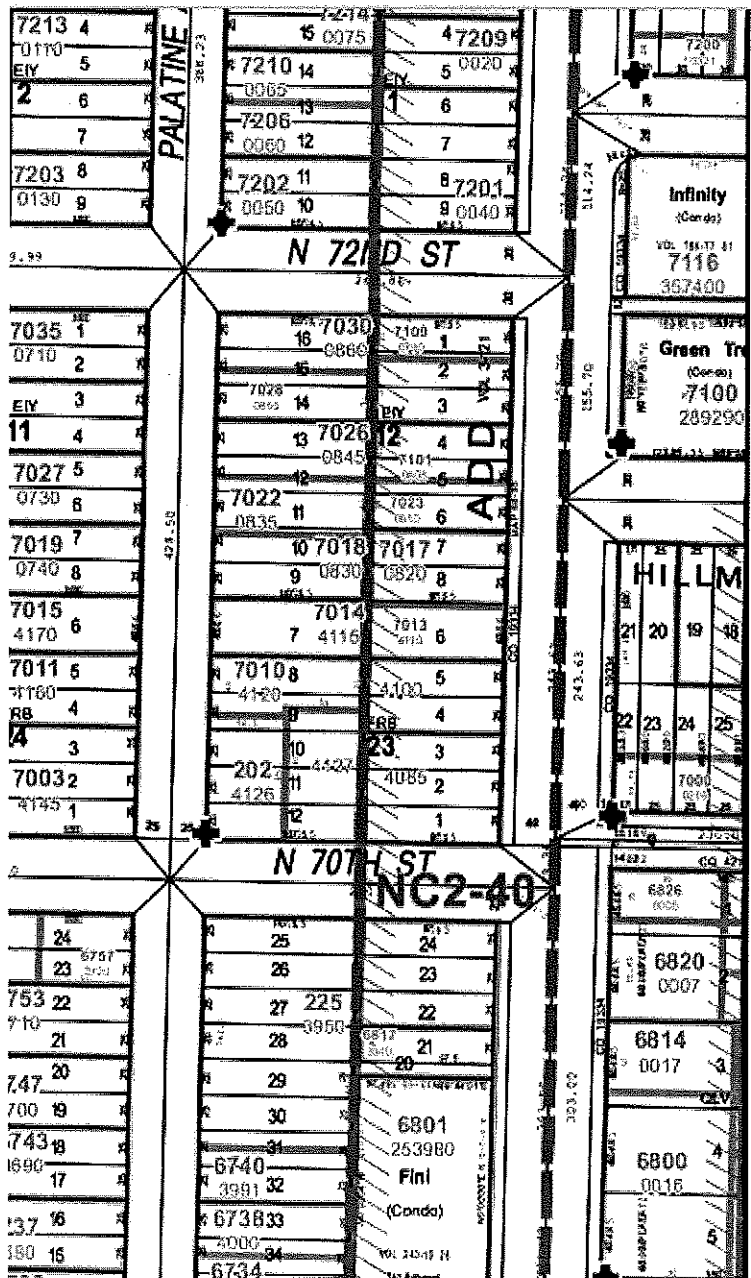
Sincerely,  
/s/

Esther Bartfeld, Phinney Ridge

King County Parcel Viewer showing 4 separate lots, 4 separate recording numbers for lots in 7009 project



-shows zoning line running N/S at the rear property lines for several blocks in that area





## Johnson, Alayna

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**From:** nancy gohring <nangohring@yahoo.com>  
**Sent:** Sunday, April 29, 2018 4:59 PM  
**To:** Examiner, Hearing  
**Subject:** case # CF314356

Dear hearing examiner,

I'm writing to urge you not to take the recommendations of SDCI for the proposal for 7009 Greenwood Ave. N. This proposed building is in a 40ft zone and there is no good reason to allow this developer to build to 55 (or 50) ft. The only reason to allow such a rezone is to enrich the developer -- there are absolutely no benefits to the neighborhood, which would only gain prohibitively expensive apartments and more cars on our crowded streets.

I'm also concerned that allowing this rezone will affect a de facto rezone of the entire Avenue. If this rezone is approved, why wouldn't any other all along the Avenue? That's not the way to enact a rezone. The neighborhood deserves proper study and discussion for a rezone.

Also, this proposal does not comply with setback requirements on the west side. Just because the wealthy developers of this property bought the single family home to the west does not mean setback requirements shouldn't be met.

Finally, the comment period on this project should be extended because the SDCI website is inaccessible this entire weekend, making it impossible for citizens to reference documents related to it, including the SDCI's recommendations. This is not an open and fair process if you don't allow people access to documents required to understand the proposal or recommendations.

Thank you,  
Nancy



**Johnson, Alayna**

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**From:** Tracy E. Peltier <TracyP@ECH-PS.com>  
**Sent:** Sunday, April 29, 2018 10:11 PM  
**To:** Examiner, Hearing  
**Subject:** Contract Rezone @ 7009 Greenwood Ave N

Dear Hearing Examiner Vancil,

I am writing in opposition to the Contract Rezone of the parcel at 7009 Greenwood Ave N for a Luxury Apartment Building.

I have been following this project since the beginning when the developer had meetings for Community input and a Design Review Meeting. The majority of people at these meetings were outspoken against rezoning for two extra stories (25 extra feet from NC 2-40 to NC 2- 65), which was the original proposal. The developers did not change their proposal to include any of the Communities ideas. These ideas included corner and view corridor setbacks which were called for in the Neighborhood Plan, Green Building Consideration, setbacks above the first or second stories from the street and single family houses and many more. They did change the proposed height addition to 55' or one extra story, however, have not followed through on any benefits to the community. Many people are happy that they are providing parking, however they were always planning to provide some parking because the Luxury Apartment market requires it. There is no reason to grant this Rezone. It meets none of the Contract Rezone criteria in the code. The only people who would benefit from adding the height to this building is the developers who will make more money. There are no buildings within 15 blocks that are over the NC 2-40 heights. MHA Rezones are certainly not guaranteed in this neighborhood. The parcel is predominately surrounded by Single Family Homes, there are no buffers. The developers have already found a loophole to build right to the property line instead of setting the building back 15 feet from the single family zones, which was not the intent of the code. The SDCI planner for the project changed and did not go through the entire process. It is puzzling to me that SDCI would recommend approval. Please carefully consider the application of the Land Use Code as it relates to this project.

Sincerely,  
Tracy Peltier  
Phinney Ridge resident



## Johnson, Alayna

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**From:** Michael Richards <mikelrich@msn.com>  
**Sent:** Monday, April 30, 2018 9:54 AM  
**To:** Examiner, Hearing  
**Subject:** Case # CF314356 / 7009 Greenwood Ave. N.

I've written before but I don't see that my comment has been posted at the project web site and it's unclear if the Hearing Examiner reviews those comments.

Regarding the requested Upzone at 7009 Greenwood Ave. N.

- 55 ft is out of context with the current, mostly single family, neighborhood. The closest structures at that height are way up on 85th at the City Center.
- Phinney Ridge is unique in that the Urban Village is a long skinny tail directly abutting single family neighborhoods. A large bulky and too tall structure would be an obvious imposition.
- Approving this Upzone would be a very bad and destructive precedent to the neighborhood. Let's not get something like that started.
- Please look at the reason for this request. It's mostly to do with the developer's desire to have a view upon moving in! This is at the expense of the rest of the neighborhood who would be forced to "look up" to that from wherever it can be seen - which is a substantial part of the city and beyond!
- This building would be at the TOP of a ridge. Shadows would be cast either directly on the adjacent single family houses or across an otherwise light accessible arterial. Let's not make a canyon out of the Greenwood Ave. Such wasn't, and still isn't, part of the Neighborhood Plan.

Otherwise, much of the design and concept of this building is a plus for the neighborhood. Including a variety (including family sized) units is good. Providing parking that at least reduces spillover to neighborhood streets is good. Quality construction materials is good. Quality architectural design is good. Towering above the rest of the neighborhood is not so good.

Thank you,

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Michael Richards,  
Long Time Phinney/Greenwood Resident



## Johnson, Alayna

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**From:** Irene Wall <iwall@serv.net>  
**Sent:** Monday, May 07, 2018 4:20 PM  
**To:** Johnson, Alayna; Examiner, Hearing  
**Subject:** RE: Record for CF-314356 (Fuchs Rezone)  
**Attachments:** Comments on Rezone Petition CF 314356 Irene Wall.pdf

Alayna,

Please find attached my comments for the record on the contract rezone petition. This is a copy of my spoken public comments on April 30th with some additional comments for clarification.

Thank you for adding this to the file for review by Hearing Examiner Vancil.

Irene Wall

--- Alayna.Johnson@seattle.gov wrote:

From: "Johnson, Alayna" <Alayna.Johnson@seattle.gov>  
To: "iwall@serv.net" <iwall@serv.net>  
Subject: RE: Record for CF-314356 (Fuchs Rezone)  
Date: Wed, 2 May 2018 20:21:46 +0000

I just sent out notice that the Hearing Examiner has granted your request.

I know many of the people who spoke at the hearing are familiar with each other, so do you happen to have Henry Brandis's email address? I cannot read what he wrote on the sign-in sheet.

Thank you!



Alayna Johnson

Legal Assistant

City of Seattle Office of Hearing Examiner  
700 Fifth Avenue, Suite 4000, Seattle, WA 98104  
Direct: 206.615.1718 | Fax: 206.684.0536 | [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)

**From:** Irene Wall <iwall@serv.net>  
**Sent:** Wednesday, May 02, 2018 12:38 PM  
**To:** Johnson, Alayna <Alayna.Johnson@seattle.gov>  
**Cc:** Torgelson, Nathan <Nathan.Torgelson@seattle.gov>; King, Lindsay <Lindsay.King@seattle.gov>  
**Subject:** RE: Record for CF-314356 (Fuchs Rezone)

Alayna,

Thanks, this appears to be a link to the prior (familiar) website. However, individuals coming on line the usual way and following the links to the Department of Construction and Inspections, will **not** be directed to this site; they are directed to the new portal.

Please request that SDCI put a link to the web6 link on the SDCI home page so people are actually able to find documents until the new portal is working properly.

Also please ask the Mr. Vancil for an extension until Monday end of day on comments given this difficulty with accessing files.

Thanks,

Irene

--- Alayna.Johnson@seattle.gov wrote:

From: "Johnson, Alayna" <Alayna.Johnson@seattle.gov>  
To: "iwall@serv.net" <iwall@serv.net>  
Subject: RE: Record for CF-314356 (Fuchs Rezone)  
Date: Wed, 2 May 2018 18:03:56 +0000

Hi Irene,



In the new system, project documents are viewable here: <http://web6.seattle.gov/dpd/edms/>

It looks like you were on the Services Portal, which is not where documents are.

Thank you,



Alayna Johnson

Legal Assistant

City of Seattle Office of Hearing Examiner

700 Fifth Avenue, Suite 4000, Seattle, WA 98104

Direct: 206.615.1718 | Fax: 206.684.0536 | [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)

**From:** Irene Wall <[iwall@serv.net](mailto:iwall@serv.net)>

**Sent:** Wednesday, May 02, 2018 10:58 AM

**To:** Johnson, Alayna <[Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)>

**Subject:** Re: Record for CF-314356 (Fuchs Rezone)

Alayna,

Just wanted to let you know that the SDCI web site is still not functioning properly. It is not allowing one to either view or download relevant documents for this permit. I have not tried with any other project record but it's probably a universal problem with the new web site.

Attached is a document showing the steps I took on the web site this morning hoping to download the most recent plan set, and relevant rezone permit application and the department's decision. This came up at the Phinney Ridge Community Council meeting last evening when we explained that the comment period was open until Friday. However, lack of access to the relevant documents will limit people's ability to send in meaningful comments.

Can anything be done about this?

thanks

Irene Wall

--- [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov) wrote:

From: "Johnson, Alayna" <[Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)>  
To: "[iwall@serv.net](mailto:iwall@serv.net)" <[iwall@serv.net](mailto:iwall@serv.net)>  
Subject: Record for CF-314356 (Fuchs Rezone)  
Date: Mon, 30 Apr 2018 17:47:33 +0000

Good morning,

The Hearing Examiner is going to keep the record open through the end of the day Friday, May 4th for public comment because of the SDCI website issue. There is no formal process for notifying the public of this type of extension, so other than the people present during the announcement you are the only one receiving this notice, since you requested the extension. If there is any one who was not present today who you think might want to submit public comment, please pass this information along.

Thank you,



Alayna Johnson  
Legal Assistant

City of Seattle Office of Hearing Examiner  
700 Fifth Avenue, Suite 4000, Seattle, WA 98104  
Direct: 206.615.1718 | Fax: 206.684.0536 | [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)

April 30, 2018 (amended May 7, 2018)

Comments re 7009 Greenwood Contract Rezone for 3023260      CF 314356

Irene Wall, Phinney Resident

My name is Irene Wall and I live in Phinney Ridge and have for decades. At this point in time I ask that you not approve the rezone petition because it does not meet the rezone criteria.

It's not a bad project, but being good, bad or unique, does not factor into a rezone decision.

This parcel is not located at the edge of a zone thus suggesting the rezone is for continuity sake.

It is 15 blocks away from the Greenwood Town Center, where the code, and our neighborhood plan, intended taller buildings. The only building developed to height greater than 40-feet, is one 65-foot height building at North 87<sup>th</sup> Street (Greenwood Towers) The rezone decision suggests that this is "nearby" but clearly it is not. The surrounding is still largely single-story buildings suggesting that abundant development capacity exists under the existing NC240 zone. So, an upzone on this parcel is not needed to meet any growth goals under the Comp Plan.

The property can be developed largely as designed, with large apartments for the owner-investors on the top two floors and with a spectacular view from the roof at 40 feet on top of a ridge in the current zone NC240. This just occurred at the Hendon development one block away, and of course, the now infamous Phinney Flats is proposed at the same height.

That the developers have a different vision and financial requirements for a taller building is fine but that is not a rezone criterion.

The main justification for this upzone is the expectation that the area will eventually redevelop at the 55-foot height when the Council approves the MHA upzones citywide. However, that has not occurred yet.

Where MHA has been authorized, with the 55-foot zones, specific use and development standards were established, for example Ordinance 125361 for the 23<sup>rd</sup>/Union/Jackson residential urban village. CB 119184, the MHA bill which is still in the Committee on Citywide Mandatory Housing Affordability and has not been approved yet, has been drafted to acknowledge **specific use and development standards in Section 23.47A.009** for the following neighborhoods in addition to the Central District mentioned above: West Seattle Junction, Bitter Lake, Roosevelt, Lake City, Ballard, Uptown, the International District and University District.

This has not yet occurred for the Greenwood-Phinney Urban Village but our urban village also has unusual features which will require refinement in development standards before this MHA process is completed. Our urban village has abrupt transitions between taller commercial zoning and SF zoning. This proposal is seeking to escape from required setbacks between NC2-

40 and SF lots which is objectionable and sets a precedent for other projects to demand similar treatment.

Therefore, the approval of this project before our addition to 23.47A.009 is premature because those "standards applicable to specific areas" are not defined yet for properties in our urban village. We can't know that the Shared Roof project will comply but SDCI is assuming that it will and approving what could well be a non-confirming building within a few months of construction starting. It would be better for the applicant to wait until the citywide MHA zoning process is concluded.

The rezone criteria acknowledge consideration of Neighborhood Plans and notes that the Greenwood-Phinney Neighborhood Plan (GPNP) lacks explicit height recommendations that relate to future rezones. I was a member of the committee that wrote the GPNP. We were advised by the city that no zoning changes would occur so we had no reason to develop rezone criteria and frankly, we were discouraged from making any zone change recommendations at that time. To now use this as a justification for this anomalous upzone is a disservice to the Neighborhood Plan and points out where an update to our Neighborhood Plan is needed before MHA or upzones are authorized.

## **ADDITIONAL COMMENTS ON REZONE CRITERIA**

**Compliance with the Comprehensive Plan.** In addition to the comments above on the Greenwood-Phinney Neighborhood Plan, the neighborhood specific design guidelines adopted in 2006 and updated in 2013, ask for upper level setback along Greenwood at the "upper stories" and calls for "increasing the setback" between zones. See excerpt below. The proposed added height for the 7009 fails to meet either condition. At close to 70-feet, with all the additional rooftop features, this will be a very imposing building and not in accordance with the design guidelines below. These guidelines were created to implement the Neighborhood Plan

### **II. Height, Bulk and Scale Compatibility**

- i. **Impact of New Buildings on the Street:** Consider the setback of upper stories of new mixed-use development on Greenwood Avenue North and North/Northwest 85th Street to reduce the dominance of new buildings on the street.

Also, new commercial development should respect the small-scale historical pattern of storefronts on Greenwood Avenue North. Typically, the older storefronts are about 50 feet in width and feature brick, stone or other masonry units. Some also feature architectural details that provide interest and a human scale to the buildings.

**Zone Edges:** Careful siting, building design and massing are important to achieve a sensitive transition between more intensive and less intensive zones. Consider design techniques including:

- a. increasing the building setback from the zone edge at the ground level;
- b. reducing the bulk of the building's upper floors nearest to the less intensive zone;
- c. reducing the overall height of the structure; and
- d. using extensive landscaping or decorative screening.

policies which are embedded in the Comprehensive Plan.

**Match between established locational criteria and area characteristics.**

While no zone designation is changing, the site is not in the

“primary business district” as described in the decision at page 27. The primary business district is in the Greenwood Town Center at the crossroads of North 85<sup>th</sup> and Greenwood. In the Phinney area, the concentration of businesses is several blocks to the north at 73<sup>rd</sup>. The Shared Roof proposal has just under 4,000 sf of retail space on the ground level. A much better use of some of this space on the west side would be to put in ground-related residential units which are in high demand. This would create a much better transition to the SF zoned lot. This is common in other large multifamily developments in Phinney Ridge.

**The rooftop features height.** As mentioned above, the Greenwood-Phinney design guidelines seek to reduce the height, bulk, and scale of new buildings where possible. For this reason, the 12-foot tall greenhouse should be moved to the ground level to occupy the part of the site zoned single family. It is also unclear why the solar panels are elevated nearly 10-feet above the roof elevation. Solar panels on other residences and commercial buildings in the neighborhood are not nearly as conspicuous as this large array will be.

**Zoning Principles – transitions or buffers.** The project as proposed does not meet the requirements for a 15-foot upper level setback from the SF zoned lot to the west. Ownership of that lot by the developer in this case does not excuse the project from meeting this clear development standard even if they do not intend to build on that parcel today. There would be no prohibition against building on it in the future as use of that lot is not part of any PUDA for this rezone and could not therefore be restricted by the PUDA. This is the same principle that the Hearing Examiner recognized in the recent Livable Phinney appeal where the city was found to misinterpret the code and now the project is designed with the required setback from the SF parcels to the east.

**Impact Evaluation. A) Housing, particularly low-income housing.** The decision notes that the project will provide 35 new residential units of which 2 would be set aside to meet the MHA requirements. However, it should be noted that this is not a conventional apartment building where all 35 units are available to the public. The top two floors of the building will be occupied by the owners of the building “for generations” according to their rezone petition. In some respects, this building is producing less housing than would a typical apartment building on this relatively large site. Furthermore, the applicant has advised the community that they also intend to apply for the Multi-Family Tax Exemption program. While this will temporarily designate some additional “affordable” units, the cost of doing so falls not on the building owners, but on all taxpayers. At the May meeting of the Phinney Ridge Community Council, County Assessor John Wilson addressed questions about the MFTE program and candidly admitted that the program has drifted far from its intended purpose and he is working with elected leaders in Seattle and King County to curtail it. We were very surprised to learn that **no property taxes** will be collected against the value of these 35 residential units for the 12-year or longer period of the tax exemption. It is unseemly that the developer/owner of the building should take credit for providing affordable housing as justification for this premature upzone when it is really a tax avoidance calculation.

**Conclusion.** While this project is a more welcome addition to the neighborhood than Phinney Flats (because at least some parking is being provided), the owner/developers are asking for the special privilege of a contract rezone to build a very large building in advance of specific development standards to guide MHA implementation in the Greenwood-Phinney Urban Village. There should be some conditions imposed to reduce the height and bulk of this building in the event that MHA (when finalized) does not allow what is proposed here.

Thank you

A handwritten signature in black ink that reads "Irene Wall". The script is fluid and cursive, with the first name "Irene" and last name "Wall" clearly distinguishable.

Irene Wall

207 North 60<sup>th</sup> Street  
Seattle, WA 98103  
iwall@serv.net

**Johnson, Alayna**

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**From:** margaret boyle <margaret@boylemartin.com>  
**Sent:** Monday, May 07, 2018 5:00 PM  
**To:** Examiner, Hearing  
**Subject:** 7009 Greenwood, Project #314356

Dear Examiner Vancil:

I write to voice my continuing opposition to the rezone required for the above project. I understand that the project is seeking a zoning height currently suggested by the HALA upzones, but the Phinney Ridge neighborhood is a very active and vocal opponent of an overall 55' zone along the Ridge. As a result, the upzone for that area is not a done deal, and the above project should not be allowed its requested rezone based in any part on a belief that it is.

In addition, as currently planned, the above project fails to meet the City Code provisions for either a rezone or for land use. Instead, the developer has engaged in a campaign filled with false advertising regarding the benefits of the project to the neighborhood and for affordable housing. As I know many of my neighbors (I live in Phinney) have pointed out, our neighborhood is hardly desperate for developers wanting to build to code and under the current zone. Also, NONE of the units in the development will be "affordable housing." The rents for every unit in that new development will start out at a very high rate, and therefore, the discounted market rate will be unreachable for most of the intended beneficiaries of "affordable housing." In other words, by allowing the rezone, you will be allowing one more structure for relatively well-off people. We don't need another of those.

Thank you for your consideration.

Best,  
Margaret Boyle





## Johnson, Alayna

**From:** Jessica Dixon-Horton <bardjess@msn.com>  
**Sent:** Monday, May 07, 2018 2:03 PM  
**To:** Examiner, Hearing  
**Subject:** Contract Rezone for 7009 Greenwood Ave. N.

To: Hearing Examiner

Re: Proposed Contract Rezone for Development at 7009 Greenwood Ave. N.

Date: 5/7/2018

From: Jessica Dixon

Dear Hearing Examiner,

I have lived in the Phinney Greenwood Neighborhood for over 25 years. I have a background in architecture and urban design. I am writing to object to the request by the developer for a contract rezone of this site for the development at 7009 Greenwood Avenue N. which would increase the height of this building from 40' to 55'. The 55' contract rezone does not follow the our community's neighborhood plan as stated in the zoning code 23.34.008D -- Neighborhood Plans.

The **Greenwood/Phinney Design Guidelines (2013)** which were drafted by the community and adopted by the city are organized into elements that "help to reinforce the existing character and protect the qualities that the neighborhood values most in the face of change (Page i)."

Design Guidelines	What	Why
<i>Context and Site, or CS1 is titled Natural Systems and Features (p. 1)</i>	A 55 foot tall building with associated rooftop structures that bring the height up to 70 feet does not enhance or support the unique natural feature or ridgeline that is Phinney Ridge or fit with the existing built character of the neighborhood.	There are no 55' buildings along Greenwood until you reach the urban center at 85th and Greenwood so it does not fit into the context of Phinney Ridge.
<i>CS2 Urban Pattern &amp; Form; Streetscape Compatibility (p. 2)</i>	A 55 foot tall building with associated rooftop structures that bring the height up to 70 feet is not compatible with the existing urban pattern and streetscape of Greenwood.	The existing urban pattern along Greenwood Ave. is a mix of 1, 2, 3 and 4 story buildings which allow for light to fill the street, for the mountain vistas to predominate from the public spaces, and for the street trees to thrive. It supports a high volume of pedestrian activity. This building will cast shade on both sides of the street below during all but midday during the summer months. There are no 55' buildings along Greenwood until you get to the Greenwood Town Center at 85th and Greenwood N, almost a mile away from this site.

<p><i>CS2 Urban Pattern &amp; Form; Height, Bulk and Scale (p. 3)</i></p>	<p>At 55 foot tall building with associated rooftop structures that bring the height up to 70 feet, the building does not comply with the setback requirements applicable to a structure in the NC-2 40' designation abutting a single family zone, chiefly SMC 23.47A.014.B.3, or the zone edge provision. The A 15' setback is required for all levels above the first floor (13-15) and then 2 feet for every 10 feet above 40 feet.</p>	<p>The proposed building, which does not have any setback from the property line on the west side for the first 4 floors and then <i>only 5 feet</i> at the 5th floor does not, as suggested in the Design Guidelines, <i>"achieve a sensitive transition between intensive and less intensive uses"</i> or effectively <i>"reduce it's dominance on the street"</i>.</p>
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I urge the Hearing Examiner reject the contract rezone to allow for 5 plus stories, to keep the height of the proposed project building to 4 stories and require the developer to set the building back from the property lines where it abuts the single family zone according to the code so that the project fits the scale and character of this truly unique place that is the Ridge.

Thank you,

Jessica Dixon

**Johnson, Alayna**

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**From:** Craig B. Fryhle <fryhlecb@plu.edu>  
**Sent:** Monday, May 07, 2018 1:19 PM  
**To:** Examiner, Hearing  
**Subject:** 7009 Greenwood contract rezone request is not justified

Dear Hearing Examiner,

The request for a contract rezone to 55 ft height at 7009 Greenwood is not justified under rezone criteria SMC 23.34.008 and.009.

The developer's arguments for the rezone involve making the finances for the project work. This is not one of the city's criteria for granting a contract rezone. There is no intrinsic justification provided by the developer that would trigger favorable consideration for a contract rezone. The developer has a vision for their project, but it is a vision that is not supported by the zoning rules that everyone else abides by. Their need for the finances to work out satisfactorily for them is not a justification for a contract rezone. The city's criteria for granting a contract rezone are not met in this case.

The contract rezone request for 7009 Greenwood should be denied.

Sincerely,

Craig Fryhle  
Seattle, WA



## Johnson, Alayna

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**From:** Michael Richards <mikelrich@msn.com>  
**Sent:** Monday, May 07, 2018 10:09 AM  
**To:** Examiner, Hearing  
**Subject:** Fw: Project #: 314356 (or #6596357? or 3023260?) / 7009 Greenwood Ave. N. - Up Zone Request

It's unclear if this comment below has been forwarded to the Hearing Examiner or not. There have been several project numbers and concern if SDCI was providing the Hearing Examiner with the entire record. Thus, I respectfully resubmit it as relevant to the proposed Up-Zone. Thank you,

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Michael Richards

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**From:** Michael Richards <mikelrich@msn.com>  
**Sent:** Thursday, April 26, 2018 9:59 PM  
**To:** prc@seattle.gov  
**Subject:** Project #: 6596357 / 7009 Greenwood Ave. N. - Up Zone Request

Previously submitted under project number 3023260.

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I've lived in the Greenwood/Phinney neighborhood for 30+ years. Like neighborhoods everywhere, change is inevitable. However, that change should not be random, or contrary to the existing neighborhood or impact its livability. I oppose the SDIC recommended up-zone of this project from NC2-40' to NC2-55'. I encourage you to look closely at how this would affect the neighborhood as well as the rationale for this proposed up-zone in the first place.

First, I'll note that the Greenwood Phinney Urban Village is unique and probably the least able, out of all the other Urban Villages, to absorb large scale, high rise development. There is a cluster of development at the Urban Center surrounding N 85<sup>th</sup> and Greenwood Ave. N. That is the core business district for the area. However, the Urban Village goes south from there (literally) for 15+ blocks to 67<sup>th</sup> then around a jog for two more blocks on Phinney Ave to 65<sup>th</sup>. That skinny strip of Urban Village is ONE LOT deep on either side (east and west) of the arterial. Directly adjacent to that current NC2-40 zoned area are single (SF) family zoned lots – the entire length of that Urban Village. The arterial, Greenwood Ave. N., is at the very top of a true ridge that slopes steeply both to the east and west – toward either Ballard or Greenlake. Project #: 6596357 is along that skinny strip of Urban Village.

- Any oversized building in this area will stick out like a sore thumb, far above the existing neighborhood – easily visible from Puget Sound to the west, View Ridge and beyond to the East as well as vantage points north and south.
- Greatly increased shadows will be cast, especially in the morning hours over the SF residences to the west. Likewise with shadows to the east in the evenings. This is a large building! On top of a ridge! To minimize impact on neighbors, this type of building should be at the bottom of a hill.
- The skyline will be negatively affected for anyone walking or driving that arterial.

The developer has noted this proposed up-zone as consistent with the proposed heights once HALA goes through. Well, HALA is not a certainty by any means. Opposition is growing. A new Mayor is in town. A city-wide appeal has been filed. Individual neighborhoods are supposedly to be recognized for their unique characteristics. Phinney Ridge will likely put up a notable fight to prevent that skinny strip of Urban Village from being unrealistically developed. Of note is that the developer has been known to state that if the up-zone doesn't go through, they'll put up a "more profitable" square box full of small apartments. That "threat" likely helped sway some opinion favorably toward the up-zone. If carried out, I'd bet the neighborhood would vigorously fight that.

Notable as well, the proposed building at normal NC2-40 height, is well thought out, a quality structure, has several family sized units, and more or less fitting to the neighborhood (it does have huge bulk for the area in general though). I commend the developer for that. However, the extra height is a problem. Why not wait and see if HALA does go through?

Lastly, there's a reason for the extra proposed height. The developer plans to move in and occupy the top floor (or two?) – undoubtedly with panoramic views in every direction. This, of course, is consistent with the building also being highly visible from through the area in every direction. So, there we have the benefit to a few at the cost of many.

Thank you for your thoughtful decision on this proposed up-zone

Sincerely  
Michael F. Richards

**Johnson, Alayna**

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**From:** Karen <redapples444@gmail.com>  
**Sent:** Monday, May 07, 2018 1:47 PM  
**To:** Examiner, Hearing  
**Cc:** PRC  
**Subject:** Comment on Shared Roof- HE File Number CF-314356, SDCI Record Number 3023260-LU

Dear Hearing Examiner,

This email is in regards to HE File Number CF-314356. I understand that the developer for this project has requested a rezone to 55 feet in height. This request does not meet the current city ordinance, so is not code compliant. The proposed setbacks are also out of compliance.

I am aware that the city is currently proposing additional development height throughout the city, but until the HALA Draft Environmental Impact Statement has been finalized and HALA has been approved, I feel it is premature to approve this rezone request.

Thank you for your consideration on this matter.

Sincerely,

Karen Vaage, Registered Landscape Architect

Sent from my iPad





**Johnson, Alayna**

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**From:** Esther Bartfeld <ebartfeld@comcast.net>  
**Sent:** Monday, May 07, 2018 5:00 PM  
**To:** Examiner, Hearing  
**Subject:** outline of public comments for 7009 rezone, #314356  
**Attachments:** 7009 outline of testimony at hearing, for HE record .pdf

Dear Hearing Examiner Vancil:

Attached is an outline of the testimony I presented at the April 30, 2018 public hearing on the 7009 Rezone.

-Esther Bartfeld



OUTLINE of Esther Bartfeld testimony at Public Hearing for 7009 Greenwood contract rezone, 4.30.18 (testimony at 9:25:57 – 9:37:37 a.m on “Minutes” of Hearing

**I. The rezone should be denied because it does not meet the criteria for a rezone and is not compatible with the neighborhood, specifically:**

- 1. The rezone criteria of SMC 23.34.007-009 are not met ,**
- 2. The NC255 zone does not exist anywhere except a couple of places that were subject to their own individualized areawide analysis**
- 3. The proposed building violates numerous setback provisions and should not be allowed in its current form even if a rezone to something is recommended**
- 4. The ramifications of granting this rezone – a single parcel in a uniformly zoned area with nothing zoned to a comparable height anywhere in the vicinity—cannot be underestimated**

**II. The proposal does not comply with the requirements for a contract rezone**

**A. 23.34.007 Rezone Criteria**

- 1. The provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets those provisions**
- 2. No single criterion or group of criteria shall be applied as an absolute requirement or tests, nor is there a hierarchy**
- 3. After reading the application and SDCI’s two decisions, it is obvious that the potential for a future MHA upzone of the area has trumped everything else, and the shortfalls in almost every other criteria are ignored, distorted, or misrepresented**

**B. 23.34.008C (Zoning History and Precedential Effect)**

- 1. Phinney Ridge has always been zoned uniformly regardless of height.**
- 2. It doesn’t matter if the area height was once higher, it was always uniform**
- 3. This parcel is at 70<sup>th</sup> and Greenwood. The nearest parcel higher than NC240 is on the north side of 84<sup>th</sup> and Greenwood, almost a mile away. You’ll see that on a UV map I provided, and also on pages 39, 40 of the official Land Use Map.**
- 4. So think about the precedent that would be set if the City could pick out one parcel in a uniformly zoned area and upzone it through a contract rezone to a height that is nowhere in the vicinity. What kind of precedent does that set for every other property on Phinney Ridge in this area?**

**C. Several criteria in SMC 23.34.008 emphasis the need for buffers, gradual transition between zoning categories**

- 1. There are NO BUFFERS and no gradual transition**

2. If you look closely at the drawings you'll see that the building is proposed to be built right on the platted lot line that separates the NC zones from the adjacent SF zone at the rear
3. The so-called "buffers" are all on the SF parcels that are not part of the rezone request and therefore not part of any PUDA that would be granted.
4. One buffer is a 10-foot swath of land on the SF parcels, but as of 4.29.18 there did not seem to be anything recorded on the SF parcels.
5. The other buffer is the 53-ft wide vacant SF lot that borders the southern 2/3 of the commercial parcels. There is nothing in this rezone request that legally obligates the owners to keep that vacant in perpetuity, and at various times they have discussed building on it.
6. Even if it did remain vacant, the Code requires separation between ZONES, not properties under different ownership.
7. And the other buffer is the currently vacant SF lot
8. But here's the catch: only the NC parcels are part of this rezone application. Only the NC lots would be subject to a PUDA.
9. The applicant calls these 4 lots a "development site," but that is just a stunt is hopes to use to avoid complying with setback requirements.
10. The two SF lots are just like any other SF lot in the city and could be re-developed.
11. Every other multi-family building in Phinney Ridge has even the first floor set back from the property rear property line and far larger upper level setbacks (above the Code requirements in many cases) than proposed for 7009 Greenwood.

**D. The big elephant in the room is SMC 23.34.008G, Changed Circumstances**

1. Evidence of changed circumstances shall be taken into consideration but is not required
2. It is obvious that the potential for an areawide HALA upzone is driving this bus.
3. Look at how many times the applicant touted alleged compliance with MHA in its application materials and included the potential for MHA upzone as a changed circumstance.
4. SDCI also made that claim in its initial recommendation, but then curiously reversed course in the current decision.
5. But SDCI forgot to cleanse the revised documents of MHA compliance statements and you'll see elsewhere that it touts this project's compliance with MHA as justification for upzoning

6. But, a proposal under consideration is not a changed circumstance. It hasn't happened. It may or may not happen and if it does, we don't know what it will look like.

E. SMC 23.34.009 talks about height limits and the need to consider the current heights, that any upzoned height shall be compatible, and that there SHALL BE a gradual transition in height and scale and level of activity unless there is a major physical buffer

1. There is no buffer, there is nothing else of this site for almost a mile, and the vacant lot in an SF zone is not the type of buffer that allows one to evade the gradual transition requirement
2. The lack of gradual transition also violates the applicable neighborhood and citywide design guidelines for transitions between zones

F.

III. Why should a rezone be granted to a zone that doesn't yet exist?.

A. NC55 is concept with features merely proposed and shopped at open houses throughout the City

B. The Council is still on a listening tour and hopping the current SDCI proposals

C. Only part of MHA that is codified is FAR

D. Only places where MHA implemented are areawide rezones in CD and QA uptown

E. We Do not know what features will be in NC55 zone in Code or as applied (or if applied) to Phinney Ridge

1. E.g., there are view blockage requirements for 40 foot zones but not 65 foot zones

F. So how do you analyze whether this applicant would get more than would otherwise be allowed in a zone that has not been defined?

G. The applicant claims it has changed from its original rezone to NC565, self-limited to 55, to NC255(M) because the NC255 was not an option at the time of their original submittal

H. I don't know what changed between SDCI's January Decision and their withdraw of their application just days before the hearing, but I did figure out one fact that should be noted:

1. By converting their application request to NC55(M), instead of NC265, self limited, they save 25% on their MHA obligation.

I. Director Rule 14-2016 (Application of Mandatory Housing Affordability for Residential Development in contract rezones) became effective in April 2017

1. It sets up categories for MHA obligations
2. If you rezone from NC240 to NC265 (the original proposal), you move up one category in the matrix
3. But if you rezone from NC240 to NC255, you stay in the same category

4. And staying in the same category is substantially cheaper.
5. In Phinney Ridge, the MHA contribution for NC265 would be 3% of units of \$20/sq ft.
6. But it would drop to 2% of units or \$13.25 / SF for a rezone NC240 to NC255

**IV. This project violates numerous setback provisions of SMC 23.47A.014 because the applicant has employed a creative stunt that I hope you will expose and reject.**

- A. The details are in the handout I provided at the hearing and further explained in an email dated 5.4.18 on this topic.
- B. You will see on page G002 of the plan sets that the applicant specifically states that since they own the adjacent SF parcels, they are part of a so-called "development site," the setback requirements on NC lots that abut lots in a residential zone on the west side don't apply.
- C. But there is no definition of a "Development site" in the Code, there is no exemption from Code requirements for parcels in different zones that have the same owner, and the Setback requirements are based on "lots" and "lot lines" and it is undisputed that there are four separate lots at issue here: the two NC lots proposed for rezone and the 2 SF lots long the west (rear boundary)
- D. This is the same Code provision where you reversed SDCI's interpretation in the Phinney Flats case, although it's a slightly different version of the same problem
- E. These are the three violations:
  1. The Code at SMC 23.47A.014.B.3 requires a 15 foot setback on all levels above the first floor up to 40 feet high when a commercial lot abuts a residential lot, and an additional setback that increases as a structure exceeds 40 feet
    - a. This building is proposed to be right on the property line for the first 4 floors, and then set back only 4-6 feet at the 5<sup>th</sup> floor instead of 15-18 ft feet as the Code would require
    - b. There is a 425 sq ft greenhouse on the roof that is too close
  2. The Code at SMC 23.47A.014.B.1 prohibits any structure within a 15 foot corner triangle when the rear yard of a commercial lot abuts the side lot in a residential zone.
    - a. This is the driveway area where they requested a departure
    - b. There shouldn't be any building there
    - c. The Code includes several design alternatives

3. The Code at SMC 23.47A.014.B.5 prohibits windows and doors within 5 feet of a residential zone. You can see in the west elevation image (page A310) that the west wall is full of windows and door

F. The zoning code doesn't have an exception for common ownership nor an exception for an invented "development site."

G. Allowing a five story building in this spot will block the light and air that would otherwise flow through that corridor for the whole block and will cast shadows in an area that would otherwise not be encumbered with shadows.

H. The whole block has the same zoning line between parcels. Allowing a breach of that line here makes this project incompatible with the surrounding area and a violation of the rezone criteria

V. In addition, the current design fails to meet a condition imposed by the Design Review Board at the final May 1, 2017 meeting and SDCI erroneously concluded that all of the recommendations were met

A. The DRB required a 5<sup>th</sup> floor setback along the entire west side

1. See Decision at 1: "The Board conditioned that an additional setback should be provided in the southwest corner of the structure consistent with the northwest corner. The setback should be a minimum of 4 feet in depth" (top of page, summarizing Board recommendations)

2. See Decision at 21: "Provide an additional setback in the southwest corner of the structure, consistent with the northwest corner, at a minimum of 4 feet in depth" (Board Recommendation #1)

B. The current plan set reveals that the 5<sup>th</sup> floor is NOT setback at the southwest corner (see page A205, A206)

C. The application incorrectly states that there are "[new]setbacks, including the entire 5<sup>th</sup> floor of the whole west façade" (p1)

D. SDCI erroneously concluded that all of the recommendations were met: See Decision at 23 ("The Director is satisfied that all of the recommendations have been met.")

VI. This may be a "good" building but it should not be approved through the rezone process because it does not meet the criteria. If the applicant can't afford to build this type of building at the currently zoned height, then it should revise its plans or wait until the HALA process is concluded.





## Johnson, Alayna

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**From:** Esther Bartfeld <ebartfeld@comcast.net>  
**Sent:** Monday, May 07, 2018 4:36 PM  
**To:** Examiner, Hearing  
**Subject:** Additional public comments for 7009 Greenwood REzone, #314356  
**Attachments:** 7009 - Errors in SDCI and Applicant testimony at hearing.pdf; 7009 Coldwell listing.tiff

Dear Hearing Examiner Vancil:

Please consider the proposed outline of issues that respond to various statements made by SDCI and the Applicant at the hearing for the proposed rezone of 7009 Greenwood Ave N on April 30, 2017. There was no opportunity for additional public comment at that time. I have also included attachments referenced in the Exhibit (that are not otherwise available through SDCI website).

I hope you will carefully review the rezone criteria as it applies to this project. It was telling that not a single public comment in favor of this proposal referenced the applicable rezone criteria or attempted to show how this proposal would comply. Instead they simply testified to their "liking" this building and its onsite parking, none of which are criteria for a contract rezone.

Moreover, a close look at the proposal shows that this proposal is really for two different types of living experiences within a single building: The owners have reserved the top two floors for themselves where they will enjoy fewer units per floor and substantially larger units with higher ceiling heights than the units reserved for the public. See the plan set drawings at A200-206, and A300-3.10. And because they have reserved 12 of the 35 units for themselves, they are, in effect, providing fewer units to the public than would be available if this site had similar units, all available to the public. It is, of course, their choice how to allocate units within a building, but when the specific proposal is subject to a rezone, then careful attention to those criteria and the specific aspects of the building is required. This building, however nice it might be, is too large for its already large site and does not meet the criteria for rezone. The rezone should be denied.

Thank you for your consideration.

-Esther Bartfeld

Plus attachments:

View from Hendon Condos at 6800 Greenwood showing Olympics view over rooftop of Fini Condo to the west, and view blockage caused by rooftop projections of umbrella and elevator shaft, at heights similar to additional building height proposed for 7009 Greenwood rezone



Real estate listing showing separate lots

SDCI TIP 247: [www.seattle.gov/DPD/Publications/CAM/Tip247.pdf](http://www.seattle.gov/DPD/Publications/CAM/Tip247.pdf)

**Supplemental material from Esther Bartfeld following Public Hearing  
on 7009 Greenwood Ave Contract Rezone Application, # 314356**

This outline responds to several points made by SDCI and / or the Applicant at the Public Hearing. There was no opportunity for the public to offer additional comments after the Applicant and SDCI presentations, so this outline attempts to address some of the misinformation that was provided at the hearing, with additional evidence why the proposed rezone should be denied.

**Summary Outline of SDCI and Applicant Errors at hearing 4.30.18**

**I. The so-called "Development Site" argument to evade the setback requirements is a gimmick intended to evade the setback requirements**

- A. Applicant claimed that "SDCI required them" to call the four separate lots a "development site" and they had to do that to accomplish their objectives
- B. The historical documents tell a different story:
  - 1. The developers initially acquired the old "Orowheat" or "Entemann's Bakery" site that was marketed as three distinct parcels in one sale: two commercial parcels facing Greenwood and one parcel zoned single-family (facing N. 70<sup>th</sup>). *See attached.*
  - 2. Those parcels could have been developed separately, but the applicant chose not to do that;
  - 3. The applicant later acquired the 7010 Palatine house in a separate transaction;
- C. There is a "Site Plan" in the Record dated December 16, 2015 that shows the following setbacks required under SMC 23.47A.014.B that SDCI and the applicant now disavow:
  - 1. A 15 foot setback for all floors above 13 feet height for first floor;
  - 2. A 15-foot triangular setback at the SW corner of the commercial lot where it abuts the side lot line of the SF lot on N.

- D. Pre-Submittal meeting minutes in the Record dated August 12, 2016 show that the applicant was searching for ways to evade the setback requirements by incorporating the single family parcels at the rear or seeking a departure from the required setbacks (*see* p3, “Clarifying Questions for Ms. King”).
- E. There is a correction notice dated February 2, 2017 (Correction #1 Zoning) by SDCI reviewer Emily Lofsted that specifies the required setbacks in SMC 23.47A.014.B that SDCI and applicant are now ignoring (*see* #7 “Setback requirements” in Correction Notice), along with the need for a sight triangle easement (#12)
- F. The same requirements were included in the February 23, 2017 correction notice.
- G. The setback requirement (#7 in the Feb 2 and Feb 23 notices) was then NOT included in the Correction Notice dated March 30, 2017, although the sight triangle requirement remained.
- H. Interestingly, March 30, 2017 was also the date that SDCI issued its “Interpretation” in the Phinney Flats case where it claimed that the setbacks of SMC 23.47A.014 did not apply in that case, but the Examiner later reversed.
- I. All plan sets and presentations after this date showed the five-story building built right on the property line with no setbacks whatsoever.

II. At the hearing, SDCI claimed it applied the “development standards” to the “development site” but this is not possible

- A. Development standards are applied based on the zone in which the affected lot is located, not to an undefined “development site” that comprises several discrete lots in different zones
- B. *See e.g.*, SMC 23.02.020 General Purpose
  - 1. SMC 23.02.020.A “. . . The Land Use Code classifies land within the City into various land use zones and overlay districts in order to regulate uses and structures . . . .”
  - 2. SMC 23.02.020.C “. . . All structures or uses shall be built or established on a lot or lots.”

3. The 7009 proposal is to upzone two established, commercial lots in the NC2-40 zone to build a 5 story structure with a massive greenhouse on top

C. SMC 23.47A identifies the “authorized uses and development standards” for the NC2 zone, as well as other commercial zones. *See* SMC 23.47A.002.A

1. SMC 23.47A.014 identifies “setback requirements” for “lots” that “abut” a “lot” in a residential zone.

2. “lot” and “lot lines” and “abut” and “residential zone” (“zone, residential”) are defined term. *See* SMC 23.84.A

3. “Setback” means the minimum required distance between a structure or portion thereof and a lot line of the lot on which it is located, or another line described in a particular section of this title” *See* definitions in SMC 23.84A.036.

4. “Development site” is not defined in the Land Use Code (*see* defined terms in SMC 23.84A).

5. Therefore the specified setbacks must be applied on the two commercial lots zoned NC and proposed for upzone, and the proposal fails to meet those requirements.

6. There is no “development standard” to apply to a “development site” that spans multiple zones.

7. There is no Code provision that waives the setback requirements for an invented “development site” that is untethered to recorded lot lines, including lots within different zones.

D. To the extent a “development site” is referenced at all, it is in the SDCI publication TIP 247 (“Development Site Permitting Guidelines”), and the proposal does not meet those requirements. *See* <http://www.seattle.gov/DPD/Publications/CAM/Tip247.pdf>

1. SDCI states that “Tips are designed to provide user-friendly information on the range of City permitting, land use and code compliance polities and procedures that you may encounter while conducting business within the City.” *See* <http://web6.seattle.gov/DPD/CAMS/camlist.aspx>

2. TIP 247 confirms that a 'development site' is " a piece of land within the boundaries of which we apply all of the developments standards for the land use . . . code. BUT, it ALSO requires that a development site must be platted with a recording number or a lot boundary adjustment if a developer wants to combine multiple lots to create a development site that does not already exist

3. There are Code requirements for lot boundary adjustments (SMC 23.38)

4. There is no record of any lot boundary adjustments for any of the four discrete tax lots purported to be a "development site"

5. The SDCI Recommendation confirms that there are four discrete tax parcels. *See* Recommendation at 3.

E. In the Phinney Flats Decision (MUP-17-009) the Examiner reaffirmed that "lot" as used in SMC 23.47A.014 means what it says, and rejected and reversed SDCI's convoluted excuse for not applying setbacks in that case (*See* Conclusion #3 at p10: "[T]he Code provides that the setback is required where the proposal's rear lot line 'abuts a lot in a residential zone.' SMC 23.47A.014.B.3 [emphasis in original Decision]. . . . "[T]he setback is required where the proposal's rear lot line abuts a lot that is within a residential zone."

1. The same analysis applies in this case.

2. The situation is not a split-zone lot, as in Phinney Flats, but the same application of the same defined terms that SDCI and applicant pretend do not apply simply because the applicant drew an imaginary line around several parcels that it owned

III. SDCI and the Applicant claimed there would be various restrictions on the vacant single family lot (e.g., no single family home), but any PUDA granted for this rezone would only apply to the two commercial parcels and the two separate single family lots would not have any legal prohibitions on their development, redevelopment, or sale at a future date.

A. This application applies only to the two commercial parcels requested for upzoning. *See* application at 3 (#2, 3 confirming that only the two NC2-40 parcels are subject to the "upzone application.")

- B. The PUDA requirements apply only to the parcels that get upzoned through the contract rezone process. SMC 23.34.004 (authorizing the Council to approve a map amendment subject to the recording of a property use and development (PUDA) containing self-imposed restrictions upon the use and development of the property to be rezoned).
- C. A contract rezone ("Rezone, contract") amends the Official Land Use Map to change the zone classification "subject to the execution, delivery, and recording of a property use and development agreement executed by the legal or beneficial owner of the property to be rezoned."
- D. The two single family lots would remain distinct tax lots after any rezone of the commercial lots and would not have any legal encumbrances
- E. Neither SDCI nor the applicant has explained what would legally prohibit the applicant from developing, redeveloping, and / or selling either or both of the single family lots it claims as part of an undefined "development site."

IV. SDCI and Applicant made inconsistent representations about the currently vacant single family lot on N. 70<sup>th</sup>, claiming that it counts as "open-space" and a "buffer" to the single-family house on the NW corner of 70<sup>th</sup> and Palatine to satisfy the rezone criteria, but also admitting that a house could be built on that land in the future.

- A. The SDCI Recommendation analysis of SMC 23.34.008.E.2 Physical buffers claims that "a 55' wide buffer exists between the zoning designation line and the shared property line between the development site and the neighboring property to the west . . . This area is planned to be landscaped open space." See Recommendation at p32.
- B. But both the Applicant and SDCI admitted at the hearing that an Accessory Dwelling Unit could be built on that vacant single family lot on N. 70<sup>th</sup> at some point in the future.
- C. The same lot cannot be both a "buffer" and have a house on it.
- D. Furthermore, the vacant lot, even without a house, does not meet the definition of "open space" as it is used in the Land Use Code SMC 23.34.008.E.2.d or as it is defined in SMC 23.84A.028:

1. **"Open space"** means land and/or water area with its surface predominately open to the sky or predominantly undeveloped, that is set aside to serve the purposes of providing park and recreation opportunities, conserving valuable natural resources, or structuring urban development and form.
2. **"Open space, landscaped"** means exterior space, at ground level, predominantly open to public view and used for the planting of trees, shrubs, ground cover, and other natural vegetation, and the installation of bioretention facilities.

V. SDCI erred when it asserted that a single family home could not be built on the vacant lot, but an accessory dwelling unit (ADU) could be built there

- A. The vacant lot and the 7010 Palatine lot are each discrete lots and tax parcels. *See e.g.*, SDCI Recommendation at 3, and Application at 3
- B. SMC 23.44.006.A ("Principal uses permitted outright" in a single family zone) allows one single family dwelling unit per lot, except that an accessory dwelling unit may also be approved pursuant to SMC 23.44.031
- C. There is no record of a lot boundary adjustment combining the two single-family lots owned by the applicant.
- D. The 7010 Palatine lot already has a principle use, single family home on it.
- E. There is no principal use structure on the currently vacant lot on N. 70th, but it is an entirely separate legal lot that could be developed with a single family home pursuant to SMC 23.44.006.A
- F. Because there is no existing principal use (or any use or structure) on the vacant lot on N. 70<sup>th</sup>, there is nothing for which a new structure ("ADU") would be an accessory. *See also* Owner occupancy requirements at SMC 23.44.041.C)
- G. Neither SDCI nor applicant has identified any Code section that would (1) prevent a single family home from being developed on the vacant lot currently claimed to be an "open space buffer;" (2) how an ADU could be built on a vacant lot that lacks a principal use structure; or (3) any legal mechanism that would prohibit the applicant from selling off either or both of the single family lots at a later date



**VI. The applicant argues that its provision of “affordable housing” weighs in favor of the rezone, but also admits it will be claiming the Multi Family Tax Exemption (MFTE) credits for several units, an action that should not weigh in favor of a rezone**

- A. The MHA requirements for this project impose minimal “affordable housing” requirements, less than would have been imposed when the developer sought a rezone to NC265, self-limited to 55 feet. *See* Director Rule 14-2016 (“Application of Mandatory Housing Affordability for Residential Development in contract rezones”)**
- B. Any units for which the applicant plans to take the MFTE credits should not weigh in favor of granting a rezone because:**
  - 1. The MFTE credits eliminate the developer’s property tax obligation on those units at the same time as homeowners throughout the City are seeing soaring property tax increases;**
  - 2. The MFTE exemption is only for 12 years, but the developer boasted of creating a “100-year” building.**
- C. The King County Assessor, John Wilson, spoke to the Phinney Ridge Community Council on Tuesday May 1, 2018 and confirmed that the MFTE credits are being used by developers in a way that was never intended when they were created to help with urban renewal, and that he is working with Mayor Durkin to phase out and/or eliminate the MFTE credit**

**VII. SDCI’s unsubstantiated claim that there will be no “view blockage” from the rezone is not supported by the facts**

- A. SMC 23.34.009 (Height limits of proposed rezone) requires consideration of the height limits established by current zoning and the view blocking potential of the proposed rezone**
- B. Every commercial parcel in the one-mile stretch of the “Phinney tail” surrounding the proposed rezone site is zoned NC2-40, which is subject to the extra view-protection analysis the Code requires for NC parcels zoned at 30 or 40 feet. SMC 23.47A.012.A.**
- C. That means that every project proposed for more than 40 feet must submit a view study proving that it would not block protected views of the Olympics, Cascades, Mt. Rainier, and Greenlake. SMC 23.47A.012.A.1.a, c *See also*, Record documents submitted with the Phinney Flats appeal, MUP 17-009.**

- D. On Thursday, May 3, 2018, I went on the roof of the newly finished “Hendon Condominiums” (formerly the Isola building) located at 6800 Greenwood Avenue N, which is on the east side of the street, directly across from another 4-story condominium building, the “Fini,” and one block south of the 7009 Greenwood rezone site.**
- E. The rooftop of the Fini is 44 feet, with an additional 4 feet for the railings.**
- F. The views of the Olympics looking west across the top of the Fini were unobstructed except where the elevator shaft protruded from the rooftop and blocked the mountain view entirely.**
- G. The photos I took from the rooftop of the Hendon condominium building across the street from the Fini, which is built to a comparable height, strongly suggest that the additional height (to 55 feet plus railings) of the 7009 project would block the protected views to the Olympics from all parcels directly east and northeast on Greenwood and that those views would not be blocked if this building were built to the current zoning heights. *See attached photos.***
- H. Upzoning of 7009 Greenwood in advance of any area wide rezone that may (or may not) occur in the future, violates all requirements of SMC 23.34.009 regarding contract rezones that would raise the allowed height of a parcel**
- I. There are also solar panels and a massive greenhouse (425 sq feet, larger than the studio apartments on the lower floors) larding up the rooftop and further blocking views (see drawings A300-A310)**
- J. Pre-submittal meeting notes dated July 25, 2017 (listed under SDCI Project #6596357) confirm that the greenhouse and raised solar array would be considered as additional stories for purposes of the Seattle building Code (see 1.07 “Roof Decks”) and the applicant admits that, for purposes of the Seattle Building Code, this is a 6-story building.**

**VIII. The proposed MHA legislation is in draft form only and the City Council is still holding public hearings throughout the City**

- A. The Applicant claimed that MHA legislation has already been transmitted to Council**

- B. But nothing other than a preliminary draft has been introduced, and nothing has yet emerged that purports to incorporate any of the hundreds (thousands?) of comments throughout the City, including the rising opposition as the public learns what is at stake**
- C. The mere potential for upzoning substantial portions of the City is not grounds to upzone a single parcel in a uniformly zoned area where nothing of a comparable height is within almost a mile of the proposed site**
- D. In addition, a careful review of the Official Land Use Maps 39 and 40 that cover this area will show there is not a single place in the Greenwood / Phinney UV where a 65 foot commercial lot abuts a single family lot along a side or rear lot line, contrary to SDCI's representations.**



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

February 7, 2018

RE: Project #: 3023260  
7009 Greenwood Ave. N. (Proposed up-zone)

RECEIVED BY  
2018 FEB 12 AM 10:02  
OFFICE OF  
HEARING EXAMINER

I've lived in the Greenwood/Phinney neighborhood for 30+ years. Like neighborhoods everywhere, change is inevitable. However, that change should not be random, or contrary to the existing neighborhood or its livability. I oppose the SDIC recommended up-zone of this project from NC2-40' to NC2-65'. I encourage you to look closely at how this would affect the neighborhood as well as the rationale for this proposed up-zone in the first place.

First, I'll note that the Greenwood Phinney Urban Village is unique and probably the least able, out of all the other Urban Villages, to absorb large scale development. There is a cluster of development at the Urban Center surrounding N 85<sup>th</sup> and Greenwood Ave. N. That is the core business district for the area. However, the Urban Village goes south from there (literally) for 15+ blocks to 67<sup>th</sup> then around a jog for two more blocks on Phinney Ave to 65<sup>th</sup>. That skinny strip of Urban Village is ONE LOT deep on either side (east and west) of the arterial. Directly adjacent to that current NC2-40 zoned area are single (SF) family zoned lots – the entire length of that Urban Village. The arterial, Greenwood Ave. N., is at the very top of a true ridge that slopes steeply both to the east and west – toward either Ballard or Greenlake.

- Any oversized building in this area will stick out like a sore thumb, far above the existing neighborhood – easily visible from Puget Sound to the west, View Ridge and beyond to the East as well as vantage points north and south.
- Greatly increased shadows will be cast, especially in the morning hours over the SF residences to the west. Likewise with shadows to the east in the evenings. This is a large building!
- The skyline will be negatively affected for anyone walking or driving that arterial.

The developer has noted this proposed up-zone as consistent with the proposed heights once HALA goes through. Well, HALA is not a certainty by any means. Opposition is growing. A new Mayor is in town. A city-wide appeal has been filed. Individual neighborhoods are supposedly to be recognized for their unique characteristics. Phinney Ridge will likely put up a notable fight to prevent that skinny strip of Urban Village from being unrealistically developed. Of note is that the developer has been known to state that if the up-zone doesn't go through, they'll put up a "more profitable" square box full of small apartments. That "threat" likely helped sway some opinion favorably toward the up-zone. If carried out, I'd bet the neighborhood would vigorously fight that. Notable as well, the proposed building at normal NC2-40 height, is well thought out, a quality structure, has several family sized units, and fitting to the neighborhood. I commend the developer for that. However, the extra height is a problem.

Lastly, there's the reason for the extra proposed height. The developer plans to move in and occupy the top floor – undoubtedly with panoramic views in every direction. This, of course, is consistent with the building also being highly visible from through the area in every direction. So, there we have the benefit to a few at the cost of many. Individual profit is also a likely rationale.

Thank you for your thoughtful decision on this proposed up-zone  
Sincerely

  
Michael F. Richards



## Johnson, Alayna

---

**From:** Irene Wall <iwall@serv.net>  
**Sent:** Monday, May 07, 2018 4:20 PM  
**To:** Johnson, Alayna; Examiner, Hearing  
**Subject:** RE: Record for CF-314356 (Fuchs Rezone)  
**Attachments:** Comments on Rezone Petition CF 314356 Irene Wall.pdf

Alayna,

Please find attached my comments for the record on the contract rezone petition. This is a copy of my spoken public comments on April 30th with some additional comments for clarification.

Thank you for adding this to the file for review by Hearing Examiner Vancil.

Irene Wall

--- Alayna.Johnson@seattle.gov wrote:

From: "Johnson, Alayna" <Alayna.Johnson@seattle.gov>  
To: "iwall@serv.net" <iwall@serv.net>  
Subject: RE: Record for CF-314356 (Fuchs Rezone)  
Date: Wed, 2 May 2018 20:21:46 +0000

I just sent out notice that the Hearing Examiner has granted your request.

I know many of the people who spoke at the hearing are familiar with each other, so do you happen to have Henry Brandis's email address? I cannot read what he wrote on the sign-in sheet.

Thank you!



Alayna Johnson

Legal Assistant

City of Seattle Office of Hearing Examiner  
700 Fifth Avenue, Suite 4000, Seattle, WA 98104  
Direct: 206.615.1718 | Fax: 206.684.0536 | [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)

**From:** Irene Wall <iwall@serv.net>  
**Sent:** Wednesday, May 02, 2018 12:38 PM  
**To:** Johnson, Alayna <Alayna.Johnson@seattle.gov>  
**Cc:** Torgelson, Nathan <Nathan.Torgelson@seattle.gov>; King, Lindsay <Lindsay.King@seattle.gov>  
**Subject:** RE: Record for CF-314356 (Fuchs Rezone)

Alayna,

Thanks, this appears to be a link to the prior (familiar) website. However, individuals coming on line the usual way and following the links to the Department of Construction and Inspections, will **not** be directed to this site; they are directed to the new portal.

Please request that SDCI put a link to the web6 link on the SDCI home page so people are actually able to find documents until the new portal is working properly.

Also please ask the Mr. Vancil for an extension until Monday end of day on comments given this difficulty with accessing files.

Thanks,

Irene

--- Alayna.Johnson@seattle.gov wrote:

From: "Johnson, Alayna" <Alayna.Johnson@seattle.gov>  
To: "iwall@serv.net" <iwall@serv.net>  
Subject: RE: Record for CF-314356 (Fuchs Rezone)  
Date: Wed, 2 May 2018 18:03:56 +0000

Hi Irene,



In the new system, project documents are viewable here: <http://web6.seattle.gov/dpd/edms/>

It looks like you were on the Services Portal, which is not where documents are.

Thank you,



Alayna Johnson

Legal Assistant

City of Seattle Office of Hearing Examiner

700 Fifth Avenue, Suite 4000, Seattle, WA 98104

Direct: 206.615.1718 | Fax: 206.684.0536 | [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)

**From:** Irene Wall <[iwall@serv.net](mailto:iwall@serv.net)>

**Sent:** Wednesday, May 02, 2018 10:58 AM

**To:** Johnson, Alayna <[Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)>

**Subject:** Re: Record for CF-314356 (Fuchs Rezone)

Alayna,

Just wanted to let you know that the SDCI web site is still not functioning properly. It is not allowing one to either view or download relevant documents for this permit. I have not tried with any other project record but it's probably a universal problem with the new web site.

Attached is a document showing the steps I took on the web site this morning hoping to download the most recent plan set, and relevant rezone permit application and the department's decision. This came up at the Phinney Ridge Community Council meeting last evening when we explained that the comment period was open until Friday. However, lack of access to the relevant documents will limit people's ability to send in meaningful comments.

Can anything be done about this?

thanks

Irene Wall

--- [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov) wrote:

From: "Johnson, Alayna" <[Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)>

To: "[iwall@serv.net](mailto:iwall@serv.net)" <[iwall@serv.net](mailto:iwall@serv.net)>

Subject: Record for CF-314356 (Fuchs Rezone)

Date: Mon, 30 Apr 2018 17:47:33 +0000

Good morning,

The Hearing Examiner is going to keep the record open through the end of the day Friday, May 4th for public comment because of the SDCI website issue. There is no formal process for notifying the public of this type of extension, so other than the people present during the announcement you are the only one receiving this notice, since you requested the extension. If there is any one who was not present today who you think might want to submit public comment, please pass this information along.

Thank you,



Alayna Johnson

Legal Assistant

City of Seattle Office of Hearing Examiner

700 Fifth Avenue, Suite 4000, Seattle, WA 98104

Direct: 206.615.1718 | Fax: 206.684.0536 | [Alayna.Johnson@seattle.gov](mailto:Alayna.Johnson@seattle.gov)

April 30, 2018 (amended May 7, 2018)

Comments re 7009 Greenwood Contract Rezone for 3023260 CF 314356

Irene Wall, Phinney Resident

My name is Irene Wall and I live in Phinney Ridge and have for decades. At this point in time I ask that you not approve the rezone petition because it does not meet the rezone criteria.

It's not a bad project, but being good, bad or unique, does not factor into a rezone decision.

This parcel is not located at the edge of a zone thus suggesting the rezone is for continuity sake.

It is 15 blocks away from the Greenwood Town Center, where the code, and our neighborhood plan, intended taller buildings. The only building developed to height greater than 40-feet, is one 65-foot height building at North 87<sup>th</sup> Street (Greenwood Towers) The rezone decision suggests that this is "nearby" but clearly it is not. The surrounding is still largely single-story buildings suggesting that abundant development capacity exists under the existing NC240 zone. So, an upzone on this parcel is not needed to meet any growth goals under the Comp Plan.

The property can be developed largely as designed, with large apartments for the owner-investors on the top two floors and with a spectacular view from the roof at 40 feet on top of a ridge in the current zone NC240. This just occurred at the Hendon development one block away, and of course, the now infamous Phinney Flats is proposed at the same height.

That the developers have a different vision and financial requirements for a taller building is fine but that is not a rezone criterion.

The main justification for this upzone is the expectation that the area will eventually redevelop at the 55-foot height when the Council approves the MHA upzones citywide. However, that has not occurred yet.

Where MHA has been authorized, with the 55-foot zones, specific use and development standards were established, for example Ordinance 125361 for the 23<sup>rd</sup>/Union/Jackson residential urban village. CB 119184, the MHA bill which is still in the Committee on Citywide Mandatory Housing Affordability and has not been approved yet, has been drafted to acknowledge **specific use and development standards in Section 23.47A.009** for the following neighborhoods in addition to the Central District mentioned above: West Seattle Junction, Bitter Lake, Roosevelt, Lake City, Ballard, Uptown, the International District and University District.

This has not yet occurred for the Greenwood-Phinney Urban Village but our urban village also has unusual features which will require refinement in development standards before this MHA process is completed. Our urban village has abrupt transitions between taller commercial zoning and SF zoning. This proposal is seeking to escape from required setbacks between NC2-

40 and SF lots which is objectionable and sets a precedent for other projects to demand similar treatment.

Therefore, the approval of this project before our addition to 23.47A.009 is premature because those "standards applicable to specific areas" are not defined yet for properties in our urban village. We can't know that the Shared Roof project will comply but SDCI is assuming that it will and approving what could well be a non-confirming building within a few months of construction starting. It would be better for the applicant to wait until the citywide MHA zoning process is concluded.

The rezone criteria acknowledge consideration of Neighborhood Plans and notes that the Greenwood-Phinney Neighborhood Plan (GPNP) lacks explicit height recommendations that relate to future rezones. I was a member of the committee that wrote the GPNP. We were advised by the city that no zoning changes would occur so we had no reason to develop rezone criteria and frankly, we were discouraged from making any zone change recommendations at that time. To now use this as a justification for this anomalous upzone is a disservice to the Neighborhood Plan and points out where an update to our Neighborhood Plan is needed before MHA or upzones are authorized.

## **ADDITIONAL COMMENTS ON REZONE CRITERIA**

**Compliance with the Comprehensive Plan.** In addition to the comments above on the Greenwood-Phinney Neighborhood Plan, the neighborhood specific design guidelines adopted in 2006 and updated in 2013, ask for upper level setback along Greenwood at the "upper stories" and calls for "increasing the setback" between zones. See excerpt below. The proposed added height for the 7009 fails to meet either condition. At close to 70-feet, with all the additional rooftop features, this will be a very imposing building and not in accordance with the design guidelines below. These guidelines were created to implement the Neighborhood Plan

policies which are embedded in the Comprehensive Plan.

### **II. Height, Bulk and Scale Compatibility**

- i. **Impact of New Buildings on the Street:** Consider the setback of upper stories of new mixed-use development on Greenwood Avenue North and North/Northwest 85th Street to reduce the dominance of new buildings on the street.

Also, new commercial development should respect the small-scale historical pattern of storefronts on Greenwood Avenue North. Typically, the older storefronts are about 50 feet in width and feature brick, stone or other masonry units. Some also feature architectural details that provide interest and a human scale to the buildings.

**Zone Edges:** Careful siting, building design and massing are important to achieve a sensitive transition between more intensive and less intensive zones. Consider design techniques including:

- a. increasing the building setback from the zone edge at the ground level;
- b. reducing the bulk of the building's upper floors nearest to the less intensive zone;
- c. reducing the overall height of the structure; and
- d. using extensive landscaping or decorative screening.

**Match between established locational criteria and area characteristics.**

While no zone designation is changing, the site is not in the

“primary business district” as described in the decision at page 27. The primary business district is in the Greenwood Town Center at the crossroads of North 85<sup>th</sup> and Greenwood. In the Phinney area, the concentration of businesses is several blocks to the north at 73<sup>rd</sup>. The Shared Roof proposal has just under 4,000 sf of retail space on the ground level. A much better use of some of this space on the west side would be to put in ground-related residential units which are in high demand. This would create a much better transition to the SF zoned lot. This is common in other large multifamily developments in Phinney Ridge.

**The rooftop features height.** As mentioned above, the Greenwood-Phinney design guidelines seek to reduce the height, bulk, and scale of new buildings where possible. For this reason, the 12-foot tall greenhouse should be moved to the ground level to occupy the part of the site zoned single family. It is also unclear why the solar panels are elevated nearly 10-feet above the roof elevation. Solar panels on other residences and commercial buildings in the neighborhood are not nearly as conspicuous as this large array will be.

**Zoning Principles – transitions or buffers.** The project as proposed does not meet the requirements for a 15-foot upper level setback from the SF zoned lot to the west. Ownership of that lot by the developer in this case does not excuse the project from meeting this clear development standard even if they do not intend to build on that parcel today. There would be no prohibition against building on it in the future as use of that lot is not part of any PUDA for this rezone and could not therefore be restricted by the PUDA. This is the same principle that the Hearing Examiner recognized in the recent Livable Phinney appeal where the city was found to misinterpret the code and now the project is designed with the required setback from the SF parcels to the east.

**Impact Evaluation. A) Housing, particularly low-income housing.** The decision notes that the project will provide 35 new residential units of which 2 would be set aside to meet the MHA requirements. However, it should be noted that this is not a conventional apartment building where all 35 units are available to the public. The top two floors of the building will be occupied by the owners of the building “for generations” according to their rezone petition. In some respects, this building is producing less housing than would a typical apartment building on this relatively large site. Furthermore, the applicant has advised the community that they also intend to apply for the Multi-Family Tax Exemption program. While this will temporarily designate some additional “affordable” units, the cost of doing so falls not on the building owners, but on all taxpayers. At the May meeting of the Phinney Ridge Community Council, County Assessor John Wilson addressed questions about the MFTE program and candidly admitted that the program has drifted far from its intended purpose and he is working with elected leaders in Seattle and King County to curtail it. We were very surprised to learn that **no property taxes** will be collected against the value of these 35 residential units for the 12-year or longer period of the tax exemption. It is unseemly that the developer/owner of the building should take credit for providing affordable housing as justification for this premature upzone when it is really a tax avoidance calculation.

**Conclusion.** While this project is a more welcome addition to the neighborhood than Phinney Flats (because at least some parking is being provided), the owner/developers are asking for the special privilege of a contract rezone to build a very large building in advance of specific development standards to guide MHA implementation in the Greenwood-Phinney Urban Village. There should be some conditions imposed to reduce the height and bulk of this building in the event that MHA (when finalized) does not allow what is proposed here.

Thank you

A handwritten signature in black ink that reads "Irene Wall". The signature is fluid and cursive, with the first name "Irene" and last name "Wall" clearly distinguishable.

Irene Wall

207 North 60<sup>th</sup> Street  
Seattle, WA 98103  
iwall@serv.net

**Johnson, Alayna**

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**From:** Esther Bartfeld <ebartfeld@comcast.net>  
**Sent:** Monday, May 07, 2018 5:00 PM  
**To:** Examiner, Hearing  
**Subject:** outline of public comments for 7009 rezone, #314356  
**Attachments:** 7009 outline of testimony at hearing, for HE record .pdf

Dear Hearing Examiner Vancil:

Attached is an outline of the testimony I presented at the April 30, 2018 public hearing on the 7009 Rezone.

-Esther Bartfeld





OUTLINE of Esther Bartfeld testimony at Public Hearing for 7009 Greenwood contract rezone, 4.30.18 (testimony at 9:25:57 – 9:37:37 a.m on “Minutes” of Hearing

**I. The rezone should be denied because it does not meet the criteria for a rezone and is not compatible with the neighborhood, specifically:**

1. The rezone criteria of SMC 23.34.007-009 are not met ,
2. The NC255 zone does not exist anywhere except a couple of places that were subject to their own individualized areawide analysis
3. The proposed building violates numerous setback provisions and should not be allowed in its current form even if a rezone to something is recommended
4. The ramifications of granting this rezone – a single parcel in a uniformly zoned area with nothing zoned to a comparable height anywhere in the vicinity—cannot be underestimated

**II. The proposal does not comply with the requirements for a contract rezone**

**A. 23.34.007 Rezone Criteria**

1. The provisions of this chapter shall be weighed and balanced together to determine which zone or height designation best meets those provisions
2. No single criterion or group of criteria shall be applied as an absolute requirement or tests, nor is there a hierarchy
3. After reading the application and SDCI’s two decisions, it is obvious that the potential for a future MHA upzone of the area has trumped everything else, and the shortfalls in almost every other criteria are ignored, distorted, or misrepresented

**B. 23.34.008C (Zoning History and Precedential Effect)**

1. Phinney Ridge has always been zoned uniformly regardless of height.
2. It doesn’t matter if the area height was once higher, it was always uniform
3. This parcel is at 70<sup>th</sup> and Greenwood. The nearest parcel higher than NC240 is on the north side of 84<sup>th</sup> and Greenwood, almost a mile away. You’ll see that on a UV map I provided, and also on pages 39, 40 of the official Land Use Map.
4. So think about the precedent that would be set if the City could pick out one parcel in a uniformly zoned area and upzone it through a contract rezone to a height that is nowhere in the vicinity. What kind of precedent does that set for every other property on Phinney Ridge in this area?

**C. Several criteria in SMC 23.34.008 emphasis the need for buffers, gradual transition between zoning categories**

1. There are NO BUFFERS and no gradual transition

2. If you look closely at the drawings you'll see that the building is proposed to be built right on the platted lot line that separates the NC zones from the adjacent SF zone at the rear
3. The so-called "buffers" are all on the SF parcels that are not part of the rezone request and therefore not part of any PUDA that would be granted.
4. One buffer is a 10-foot swath of land on the SF parcels, but as of 4.29.18 there did not seem to be anything recorded on the SF parcels.
5. The other buffer is the 53-ft wide vacant SF lot that borders the southern 2/3 of the commercial parcels. There is nothing in this rezone request that legally obligates the owners to keep that vacant in perpetuity, and at various times they have discussed building on it.
6. Even if it did remain vacant, the Code requires separation between ZONES, not properties under different ownership.
7. And the other buffer is the currently vacant SF lot
8. But here's the catch: only the NC parcels are part of this rezone application. Only the NC lots would be subject to a PUDA.
9. The applicant calls these 4 lots a "development site," but that is just a stunt is hopes to use to avoid complying with setback requirements.
10. The two SF lots are just like any other SF lot in the city and could be re-developed.
11. Every other multi-family building in Phinney Ridge has even the first floor set back from the property rear property line and far larger upper level setbacks (above the Code requirements in many cases) than proposed for 7009 Greenwood.

**D. The big elephant in the room is SMC 23.34.008G, Changed Circumstances**

1. Evidence of changed circumstances shall be taken into consideration but is not required
2. It is obvious that the potential for an areawide HALA upzone is driving this bus.
3. Look at how many times the applicant touted alleged compliance with MHA in its application materials and included the potential for MHA upzone as a changed circumstance.
4. SDCI also made that claim in its initial recommendation, but then curiously reversed course in the current decision.
5. But SDCI forgot to cleanse the revised documents of MHA compliance statements and you'll see elsewhere that it touts this project's compliance with MHA as justification for upzoning

6. But, a proposal under consideration is not a changed circumstance. It hasn't happened. It may or may not happen and if it does, we don't know what it will look like.

E. SMC 23.34.009 talks about height limits and the need to consider the current heights, that any upzoned height shall be compatible, and that there SHALL BE a gradual transition in height and scale and level of activity unless there is a major physical buffer

1. There is no buffer, there is nothing else of this site for almost a mile, and the vacant lot in an SF zone is not the type of buffer that allows one to evade the gradual transition requirement
2. The lack of gradual transition also violates the applicable neighborhood and citywide design guidelines for transitions between zones

F.

III. Why should a rezone be granted to a zone that doesn't yet exist?.

A. NC55 is concept with features merely proposed and shopped at open houses throughout the City

B. The Council is still on a listening tour and hopping the current SDCI proposals

C. Only part of MHA that is codified is FAR

D. Only places where MHA implemented are areawide rezones in CD and QA uptown

E. We Do not know what features will be in NC55 zone in Code or as applied (or if applied) to Phinney Ridge

1. E.g., there are view blockage requirements for 40 foot zones but not 65 foot zones

F. So how do you analyze whether this applicant would get more than would otherwise be allowed in a zone that has not been defined?

G. The applicant claims it has changed from its original rezone to NC565, self-limited to 55, to NC255(M) because the NC255 was not an option at the time of their original submittal

H. I don't know what changed between SDCI's January Decision and their withdraw of their application just days before the hearing, but I did figure out one fact that should be noted:

1. By converting their application request to NC55(M), instead of NC265, self limited, they save 25% on their MHA obligation.

I. Director Rule 14-2016 (Application of Mandatory Housing Affordability for Residential Development in contract rezones) became effective in April 2017

1. It sets up categories for MHA obligations
2. If you rezone from NC240 to NC265 (the original proposal), you move up one category in the matrix
3. But if you rezone from NC240 to NC255, you stay in the same category

4. And staying in the same category is substantially cheaper.
5. In Phinney Ridge, the MHA contribution for NC265 would be 3% of units of \$20/sq ft.
6. But it would drop to 2% of units or \$13.25 / SF for a rezone NC240 to NC255

**IV. This project violates numerous setback provisions of SMC 23.47A.014 because the applicant has employed a creative stunt that I hope you will expose and reject.**

- A. The details are in the handout I provided at the hearing and further explained in an email dated 5.4.18 on this topic.**
- B. You will see on page G002 of the plan sets that the applicant specifically states that since they own the adjacent SF parcels, they are part of a so-called "development site," the setback requirements on NC lots that abut lots in a residential zone on the west side don't apply.**
- C. But there is no definition of a "Development site" in the Code, there is no exemption from Code requirements for parcels in different zones that have the same owner, and the Setback requirements are based on "lots" and "lot lines" and it is undisputed that there are four separate lots at issue here: the two NC lots proposed for rezone and the 2 SF lots long the west (rear boundary)**
- D. This is the same Code provision where you reversed SDCI's interpretation in the Phinney Flats case, although it's a slightly different version of the same problem**
- E. These are the three violations:**
  - 1. The Code at SMC 23.47A.014.B.3 requires a 15 foot setback on all levels above the first floor up to 40 feet high when a commercial lot abuts a residential lot, and an additional setback that increases as a structure exceeds 40 feet**
    - a. This building is proposed to be right on the property line for the first 4 floors, and then set back only 4-6 feet at the 5<sup>th</sup> floor instead of 15-18 ft feet as the Code would require**
    - b. There is a 425 sq ft greenhouse on the roof that is too close**
  - 2. The Code at SMC 23.47A.014.B.1 prohibits any structure within a 15 foot corner triangle when the rear yard of a commercial lot abuts the side lot in a residential zone.**
    - a. This is the driveway area where they requested a departure**
    - b. There shouldn't be any building there**
    - c. The Code includes several design alternatives**

3. The Code at SMC 23.47A.014.B.5 prohibits windows and doors within 5 feet of a residential zone. You can see in the west elevation image (page A310) that the west wall is full of windows and door

F. The zoning code doesn't have an exception for common ownership nor an exception for an invented "development site."

G. Allowing a five story building in this spot will block the light and air that would otherwise flow through that corridor for the whole block and will cast shadows in an area that would otherwise not be encumbered with shadows.

H. The whole block has the same zoning line between parcels. Allowing a breach of that line here makes this project incompatible with the surrounding area and a violation of the rezone criteria

V. In addition, the current design fails to meet a condition imposed by the Design Review Board at the final May 1, 2017 meeting and SDCI erroneously concluded that all of the recommendations were met

A. The DRB required a 5<sup>th</sup> floor setback along the entire west side

1. See Decision at 1: "The Board conditioned that an additional setback should be provided in the southwest corner of the structure consistent with the northwest corner. The setback should be a minimum of 4 feet in depth" (top of page, summarizing Board recommendations)

2. See Decision at 21: "Provide an additional setback in the southwest corner of the structure, consistent with the northwest corner, at a minimum of 4 feet in depth" (Board Recommendation #1)

B. The current plan set reveals that the 5<sup>th</sup> floor is NOT setback at the southwest corner (see page A205, A206)

C. The application incorrectly states that there are "[new]setbacks, including the entire 5<sup>th</sup> floor of the whole west façade" (p1)

D. SDCI erroneously concluded that all of the recommendations were met: See Decision at 23 ("The Director is satisfied that all of the recommendations have been met.")

VI. This may be a "good" building but it should not be approved through the rezone process because it does not meet the criteria. If the applicant can't afford to build this type of building at the currently zoned height, then it should revise its plans or wait until the HALA process is concluded.



**Johnson, Alayna**

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**From:** Craig B. Fryhle <fryhlecb@plu.edu>  
**Sent:** Monday, May 07, 2018 1:19 PM  
**To:** Examiner, Hearing  
**Subject:** 7009 Greenwood contract rezone request is not justified

Dear Hearing Examiner,

The request for a contract rezone to 55 ft height at 7009 Greenwood is not justified under rezone criteria SMC 23.34.008 and.009.

The developer's arguments for the rezone involve making the finances for the project work. This is not one of the city's criteria for granting a contract rezone. There is no intrinsic justification provided by the developer that would trigger favorable consideration for a contract rezone. The developer has a vision for their project, but it is a vision that is not supported by the zoning rules that everyone else abides by. Their need for the finances to work out satisfactorily for them is not a justification for a contract rezone. The city's criteria for granting a contract rezone are not met in this case.

The contract rezone request for 7009 Greenwood should be denied.

Sincerely,

Craig Fryhle  
Seattle, WA

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**Johnson, Alayna**

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**From:** Karen <redapples444@gmail.com>  
**Sent:** Monday, May 07, 2018 1:47 PM  
**To:** Examiner, Hearing  
**Cc:** PRC  
**Subject:** Comment on Shared Roof- HE File Number CF-314356, SDCI Record Number 3023260-LU

Dear Hearing Examiner,

This email is in regards to HE File Number CF-314356. I understand that the developer for this project has requested a rezone to 55 feet in height. This request does not meet the current city ordinance, so is not code compliant. The proposed setbacks are also out of compliance.

I am aware that the city is currently proposing additional development height throughout the city, but until the HALA Draft Environmental Impact Statement has been finalized and HALA has been approved, I feel it is premature to approve this rezone request.

Thank you for your consideration on this matter.

Sincerely,

Karen Vaage, Registered Landscape Architect

Sent from my iPad



## Johnson, Alayna

**From:** Jessica Dixon-Horton <bardjess@msn.com>  
**Sent:** Monday, May 07, 2018 2:03 PM  
**To:** Examiner, Hearing  
**Subject:** Contract Rezone for 7009 Geenwood Ave. N.

To: Hearing Examiner

Re: Proposed Contract Rezone for Development at 7009 Greenwood Ave. N.

Date: 5/7/2018

From: Jessica Dixon

Dear Hearing Examiner,

I have lived in the Phinney Greenwood Neighborhood for over 25 years. I have a background in architecture and urban design. I am writing to object to the request by the developer for a contract rezone of this site for the development at 7009 Greenwood Avenue N. which would increase the height of this building from 40' to 55'. The 55' contract rezone does not follow the our community's neighborhood plan as stated in the zoning code 23.34.008D – Neighborhood Plans.

The **Greenwood/Phinney Design Guidelines (2013)** which were drafted by the community and adopted by the city are organized into elements that “*help to reinforce the existing character and protect the qualities that the neighborhood values most in the face of change (Page i).*”

Design Guidelines	What	Why
<i>Context and Site, or CS1 is titled Natural Systems and Features (p. 1)</i>	A 55 foot tall building with associated rooftop structures that bring the height up to 70 feet does not enhance or support the unique natural feature or ridgeline that is Phinney Ridge or fit with the existing built character of the neighborhood.	There are no 55' buildings along Greenwood until you reach the urban center at 85th and Greenwood so it does not fit into the context of Phinney Ridge.
<i>CS2 Urban Pattern &amp; Form; Streetscape Compatibility (p. 2)</i>	A 55 foot tall building with associated rooftop structures that bring the height up to 70 feet is not compatible with the existing urban pattern and streetscape of Greenwood.	The existing urban pattern along Greenwood Ave. is a mix of 1, 2, 3 and 4 story buildings which allow for light to fill the street, for the mountain vistas to predominate from the public spaces, and for the street trees to thrive. It supports a high volume of pedestrian activity. This building will cast shade on both sides of the street below during all but midday during the summer months. There are no 55' buildings along Greenwood until you get to the Greenwood Town Center at 85th and Greenwood N, almost a mile away from this site.

<p>CS2 Urban Pattern &amp; Form; Height, Bulk and Scale (p. 3)</p>	<p>At 55 foot tall building with associated rooftop structures that bring the height up to 70 feet, the building does not comply with the setback requirements applicable to a structure in the NC-2 40' designation abutting a single family zone, chiefly SMC 23.47A.014.B.3, or the zone edge provision. The A 15' setback is required for all levels above the first floor (13-15) and then 2 feet for every 10 feet above 40 feet.</p>	<p>The proposed building, which does not have any setback from the property line on the west side for the first 4 floors and then only 5 feet at the 5th floor does not, as suggested in the Design Guidelines, "achieve a sensitive transition between intensive and less intensive uses" or effectively "reduce it's dominance on the street".</p>
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I urge the Hearing Examiner reject the contract rezone to allow for 5 plus stories, to keep the height of the proposed project building to 4 stories and require the developer to set the building back from the property lines where it abuts the single family zone according to the code so that the project fits the scale and character of this truly unique place that is the Ridge.

Thank you,

Jessica Dixon

## Johnson, Alayna

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**From:** Esther Bartfeld <ebartfeld@comcast.net>  
**Sent:** Monday, May 07, 2018 4:36 PM  
**To:** Examiner, Hearing  
**Subject:** Additional public comments for 7009 Greenwood REzone, #314356  
**Attachments:** 7009 - Errors in SDCI and Applicant testimony at hearing.pdf; 7009 Coldwell listing.tiff

Dear Hearing Examiner Vancil:

Please consider the proposed outline of issues that respond to various statements made by SDCI and the Applicant at the hearing for the proposed rezone of 7009 Greenwood Ave N on April 30, 2017. There was no opportunity for additional public comment at that time. I have also included attachments referenced in the Exhibit (that are not otherwise available through SDCI website).

I hope you will carefully review the rezone criteria as it applies to this project. It was telling that not a single public comment in favor of this proposal referenced the applicable rezone criteria or attempted to show how this proposal would comply. Instead they simply testified to their "liking" this building and its onsite parking, none of which are criteria for a contract rezone.

Moreover, a close look at the proposal shows that this proposal is really for two different types of living experiences within a single building: The owners have reserved the top two floors for themselves where they will enjoy fewer units per floor and substantially larger units with higher ceiling heights than the units reserved for the public. See the plan set drawings at A200-206, and A300-3.10. And because they have reserved 12 of the 35 units for themselves, they are, in effect, providing fewer units to the public than would be available if this site had similar units, all available to the public. It is, of course, their choice how to allocate units within a building, but when the specific proposal is subject to a rezone, then careful attention to those criteria and the specific aspects of the building is required. This building, however nice it might be, is too large for its already large site and does not meet the criteria for rezone. The rezone should be denied.

Thank you for your consideration.

-Esther Bartfeld

Plus attachments:

View from Hendon Condos at 6800 Greenwood showing Olympics view over rooftop of Fini Condo to the west, and view blockage caused by rooftop projections of umbrella and elevator shaft, at heights similar to additional building height proposed for 7009 Greenwood rezone



Real estate listing showing separate lots

SDCI TIP 247: [www.seattle.gov/DPD/Publications/CAM/Tip247.pdf](http://www.seattle.gov/DPD/Publications/CAM/Tip247.pdf)

**Supplemental material from Esther Bartfeld following Public Hearing  
on 7009 Greenwood Ave Contract Rezone Application, # 314356**

This outline responds to several points made by SDCI and / or the Applicant at the Public Hearing. There was no opportunity for the public to offer additional comments after the Applicant and SDCI presentations, so this outline attempts to address some of the misinformation that was provided at the hearing, with additional evidence why the proposed rezone should be denied.

**Summary Outline of SDCI and Applicant Errors at hearing 4.30.18**

**I. The so-called "Development Site" argument to evade the setback requirements is a gimmick intended to evade the setback requirements**

- A. Applicant claimed that "SDCI required them" to call the four separate lots a "development site" and they had to do that to accomplish their objectives**
- B. The historical documents tell a different story:**
  - 1. The developers initially acquired the old "Orowheat" or "Entemann's Bakery" site that was marketed as three distinct parcels in one sale: two commercial parcels facing Greenwood and one parcel zoned single-family (facing N. 70<sup>th</sup>). *See attached.***
  - 2. Those parcels could have been developed separately, but the applicant chose not to do that;**
  - 3. The applicant later acquired the 7010 Palatine house in a separate transaction;**
- C. There is a "Site Plan" in the Record dated December 16, 2015 that shows the following setbacks required under SMC 23.47A.014.B that SDCI and the applicant now disavow:**
  - 1. A 15 foot setback for all floors above 13 feet height for first floor;**
  - 2. A 15-foot triangular setback at the SW corner of the commercial lot where it abuts the side lot line of the SF lot on N.**

- D. Pre-Submittal meeting minutes in the Record dated August 12, 2016 show that the applicant was searching for ways to evade the setback requirements by incorporating the single family parcels at the rear or seeking a departure from the required setbacks (*see* p3, “Clarifying Questions for Ms. King”).
  - E. There is a correction notice dated February 2, 2017 (Correction #1 Zoning) by SDCI reviewer Emily Lofsted that specifies the required setbacks in SMC 23.47A.014.B that SDCI and applicant are now ignoring (*see* #7 “Setback requirements” in Correction Notice), along with the need for a sight triangle easement (#12)
  - F. The same requirements were included in the February 23, 2017 correction notice.
  - G. The setback requirement (#7 in the Feb 2 and Feb 23 notices) was then NOT included in the Correction Notice dated March 30, 2017, although the sight triangle requirement remained.
  - H. Interestingly, March 30, 2017 was also the date that SDCI issued its “Interpretation” in the Phinney Flats case where it claimed that the setbacks of SMC 23.47A.014 did not apply in that case, but the Examiner later reversed.
  - I. All plan sets and presentations after this date showed the five-story building built right on the property line with no setbacks whatsoever.
- II. At the hearing, SDCI claimed it applied the “development standards” to the “development site” but this is not possible
- A. Development standards are applied based on the zone in which the affected lot is located, not to an undefined “development site” that comprises several discrete lots in different zones
  - B. *See e.g.*, SMC 23.02.020 General Purpose
    - 1. SMC 23.02.020.A “. . . The Land Use Code classifies land within the City into various land use zones and overlay districts in order to regulate uses and structures . . . .”
    - 2. SMC 23.02.020.C “. . . All structures or uses shall be built or established on a lot or lots.”



3. The 7009 proposal is to upzone two established, commercial lots in the NC2-40 zone to build a 5 story structure with a massive greenhouse on top

C. SMC 23.47A identifies the “authorized uses and development standards” for the NC2 zone, as well as other commercial zones. *See* SMC 23.47A.002.A

1. SMC 23.47A.014 identifies “setback requirements” for “lots” that “abut” a “lot” in a residential zone.

2. “lot” and “lot lines” and “abut” and “residential zone” (“zone, residential”) are defined term. *See* SMC 23.84.A

3. “Setback” means the minimum required distance between a structure or portion thereof and a lot line of the lot on which it is located, or another line described in a particular section of this title” *See* definitions in SMC 23.84A.036.

4. “Development site” is not defined in the Land Use Code (*see* defined terms in SMC 23.84A).

5. Therefore the specified setbacks must be applied on the two commercial lots zoned NC and proposed for upzone, and the proposal fails to meet those requirements.

6. There is no “development standard” to apply to a “development site” that spans multiple zones.

7. There is no Code provision that waives the setback requirements for an invented “development site” that is untethered to recorded lot lines, including lots within different zones.

D. To the extent a “development site” is referenced at all, it is in the SDCI publication TIP 247 (“Development Site Permitting Guidelines”), and the proposal does not meet those requirements. *See* <http://www.seattle.gov/DPD/Publications/CAM/Tip247.pdf>

1. SDCI states that “Tips are designed to provide user-friendly information on the range of City permitting, land use and code compliance polities and procedures that you may encounter while conducting business within the City.” *See* <http://web6.seattle.gov/DPD/CAMS/camlist.aspx>

2. TIP 247 confirms that a 'development site' is "a piece of land within the boundaries of which we apply all of the developments standards for the land use . . . code. BUT, it ALSO requires that a development site must be platted with a recording number or a lot boundary adjustment if a developer wants to combine multiple lots to create a development site that does not already exist

3. There are Code requirements for lot boundary adjustments (SMC 23.38)

4. There is no record of any lot boundary adjustments for any of the four discrete tax lots purported to be a "development site"

5. The SDCI Recommendation confirms that there are four discrete tax parcels. *See* Recommendation at 3.

E. In the Phinney Flats Decision (MUP-17-009) the Examiner reaffirmed that "lot" as used in SMC 23.47A.014 means what it says, and rejected and reversed SDCI's convoluted excuse for not applying setbacks in that case (*See* Conclusion #3 at p10: "[T]he Code provides that the setback is required where the proposal's rear lot line 'abuts a *lot* in a residential zone.' SMC 23.47A.014.B.3 [emphasis in original Decision]. . . . "[T]he setback is required where the proposal's rear lot line abuts a lot that is within a residential zone."

1. The same analysis applies in this case.

2. The situation is not a split-zone lot, as in Phinney Flats, but the same application of the same defined terms that SDCI and applicant pretend do not apply simply because the applicant drew an imaginary line around several parcels that it owned

III. SDCI and the Applicant claimed there would be various restrictions on the vacant single family lot (e.g., no single family home), but any PUDA granted for this rezone would only apply to the two commercial parcels and the two separate single family lots would not have any legal prohibitions on their development, redevelopment, or sale at a future date.

A. This application applies only to the two commercial parcels requested for upzoning. *See* application at 3 (#2, 3 confirming that only the two NC2-40 parcels are subject to the "upzone application.")

- B. The PUDA requirements apply only to the parcels that get upzoned through the contract rezone process. SMC 23.34.004 (authorizing the Council to approve a map amendment subject to the recording of a property use and development (PUDA) containing self-imposed restrictions upon the use and development of the property to be rezoned).
- C. A contract rezone ("Rezone, contract") amends the Official Land Use Map to change the zone classification "subject to the execution, delivery, and recording of a property use and development agreement executed by the legal or beneficial owner of the property to be rezoned."
- D. The two single family lots would remain distinct tax lots after any rezone of the commercial lots and would not have any legal encumbrances
- E. Neither SDCI nor the applicant has explained what would legally prohibit the applicant from developing, redeveloping, and / or selling either or both of the single family lots it claims as part of an undefined "development site."

IV. SDCI and Applicant made inconsistent representations about the currently vacant single family lot on N. 70<sup>th</sup>, claiming that it counts as "open-space" and a "buffer" to the single-family house on the NW corner of 70<sup>th</sup> and Palatine to satisfy the rezone criteria, but also admitting that a house could be built on that land in the future.

- A. The SDCI Recommendation analysis of SMC 23.34.008.E.2 Physical buffers claims that "a 55' wide buffer exists between the zoning designation line and the shared property line between the development site and the neighboring property to the west . . . This area is planned to be landscaped open space." See Recommendation at p32.
- B. But both the Applicant and SDCI admitted at the hearing that an Accessory Dwelling Unit could be built on that vacant single family lot on N. 70<sup>th</sup> at some point in the future.
- C. The same lot cannot be both a "buffer" and have a house on it.
- D. Furthermore, the vacant lot, even without a house, does not meet the definition of "open space" as it is used in the Land Use Code SMC 23.34.008.E.2.d or as it is defined in SMC 23.84A.028:

1. **"Open space"** means land and/or water area with its surface predominately open to the sky or predominantly undeveloped, that is set aside to serve the purposes of providing park and recreation opportunities, conserving valuable natural resources, or structuring urban development and form.
2. **"Open space, landscaped"** means exterior space, at ground level, predominantly open to public view and used for the planting of trees, shrubs, ground cover, and other natural vegetation, and the installation of bioretention facilities.

V. SDCI erred when it asserted that a single family home could not be built on the vacant lot, but an accessory dwelling unit (ADU) could be built there

- A. The vacant lot and the 7010 Palatine lot are each discrete lots and tax parcels. *See e.g.*, SDCI Recommendation at 3, and Application at 3
- B. SMC 23.44.006.A ("Principal uses permitted outright" in a single family zone) allows one single family dwelling unit per lot, except that an accessory dwelling unit may also be approved pursuant to SMC 23.44.031
- C. There is no record of a lot boundary adjustment combining the two single-family lots owned by the applicant.
- D. The 7010 Palatine lot already has a principle use, single family home on it.
- E. There is no principal use structure on the currently vacant lot on N. 70<sup>th</sup>, but it is an entirely separate legal lot that could be developed with a single family home pursuant to SMC 23.44.006.A
- F. Because there is no existing principal use (or any use or structure) on the vacant lot on N. 70<sup>th</sup>, there is nothing for which a new structure ("ADU") would be an accessory. *See also* Owner occupancy requirements at SMC 23.44.041.C)
- G. Neither SDCI nor applicant has identified any Code section that would (1) prevent a single family home from being developed on the vacant lot currently claimed to be an "open space buffer;" (2) how an ADU could be built on a vacant lot that lacks a principal use structure; or (3) any legal mechanism that would prohibit the applicant from selling off either or both of the single family lots at a later date

**VI. The applicant argues that its provision of “affordable housing” weighs in favor of the rezone, but also admits it will be claiming the Multi Family Tax Exemption (MFTE) credits for several units, an action that should not weigh in favor of a rezone**

- A. The MHA requirements for this project impose minimal “affordable housing” requirements, less than would have been imposed when the developer sought a rezone to NC265, self-limited to 55 feet. *See* Director Rule 14-2016 (“Application of Mandatory Housing Affordability for Residential Development in contract rezones”)**
- B. Any units for which the applicant plans to take the MFTE credits should not weigh in favor of granting a rezone because:**
  - 1. The MFTE credits eliminate the developer’s property tax obligation on those units at the same time as homeowners throughout the City are seeing soaring property tax increases;**
  - 2. The MFTE exemption is only for 12 years, but the developer boasted of creating a “100-year” building.**
- C. The King County Assessor, John Wilson, spoke to the Phinney Ridge Community Council on Tuesday May 1, 2018 and confirmed that the MFTE credits are being used by developers in a way that was never intended when they were created to help with urban renewal, and that he is working with Mayor Durkin to phase out and/or eliminate the MFTE credit**

**VII. SDCI’s unsubstantiated claim that there will be no “view blockage” from the rezone is not supported by the facts**

- A. SMC 23.34.009 (Height limits of proposed rezone) requires consideration of the height limits established by current zoning and the view blocking potential of the proposed rezone**
- B. Every commercial parcel in the one-mile stretch of the “Phinney tail” surrounding the proposed rezone site is zoned NC2-40, which is subject to the extra view-protection analysis the Code requires for NC parcels zoned at 30 or 40 feet. SMC 23.47A.012.A.**
- C. That means that every project proposed for more than 40 feet must submit a view study proving that it would not block protected views of the Olympics, Cascades, Mt. Rainier, and Greenlake. SMC 23.47A.012.A.1.a, c *See also*, Record documents submitted with the Phinney Flats appeal, MUP 17-009.**

- D. On Thursday, May 3, 2018, I went on the roof of the newly finished “Hendon Condominiums” (formerly the Isola building) located at 6800 Greenwood Avenue N, which is on the east side of the street, directly across from another 4-story condominium building, the “Fini,” and one block south of the 7009 Greenwood rezone site.**
- E. The rooftop of the Fini is 44 feet, with an additional 4 feet for the railings.**
- F. The views of the Olympics looking west across the top of the Fini were unobstructed except where the elevator shaft protruded from the rooftop and blocked the mountain view entirely.**
- G. The photos I took from the rooftop of the Hendon condominium building across the street from the Fini, which is built to a comparable height, strongly suggest that the additional height (to 55 feet plus railings) of the 7009 project would block the protected views to the Olympics from all parcels directly east and northeast on Greenwood and that those views would not be blocked if this building were built to the current zoning heights. *See attached photos.***
- H. Upzoning of 7009 Greenwood in advance of any area wide rezone that may (or may not) occur in the future, violates all requirements of SMC 23.34.009 regarding contract rezones that would raise the allowed height of a parcel**
- I. There are also solar panels and a massive greenhouse (425 sq feet, larger than the studio apartments on the lower floors) larding up the rooftop and further blocking views (see drawings A300-A310)**
- J. Pre-submittal meeting notes dated July 25, 2017 (listed under SDCI Project #6596357) confirm that the greenhouse and raised solar array would be considered as additional stories for purposes of the Seattle building Code (see 1.07 “Roof Decks”) and the applicant admits that, for purposes of the Seattle Building Code, this is a 6-story building.**

**VIII. The proposed MHA legislation is in draft form only and the City Council is still holding public hearings throughout the City**

- A. The Applicant claimed that MHA legislation has already been transmitted to Council**

- B. But nothing other than a preliminary draft has been introduced, and nothing has yet emerged that purports to incorporate any of the hundreds (thousands?) of comments throughout the City, including the rising opposition as the public learns what is at stake**
- C. The mere potential for upzoning substantial portions of the City is not grounds to upzone a single parcel in a uniformly zoned area where nothing of a comparable height is within almost a mile of the proposed site**
- D. In addition, a careful review of the Official Land Use Maps 39 and 40 that cover this area will show there is not a single place in the Greenwood / Phinney UV where a 65 foot commercial lot abuts a single family lot along a side or rear lot line, contrary to SDCI's representations.**





## Johnson, Alayna

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**From:** margaret boyle <margaret@boylemartin.com>  
**Sent:** Monday, May 07, 2018 5:00 PM  
**To:** Examiner, Hearing  
**Subject:** 7009 Greenwood, Project #314356

Dear Examiner Vancil:

I write to voice my continuing opposition to the rezone required for the above project. I understand that the project is seeking a zoning height currently suggested by the HALA upzones, but the Phinney Ridge neighborhood is a very active and vocal opponent of an overall 55' zone along the Ridge. As a result, the upzone for that area is not a done deal, and the above project should not be allowed its requested rezone based in any part on a belief that it is.

In addition, as currently planned, the above project fails to meet the City Code provisions for either a rezone or for land use. Instead, the developer has engaged in a campaign filled with false advertising regarding the benefits of the project to the neighborhood and for affordable housing. As I know many of my neighbors (I live in Phinney) have pointed out, our neighborhood is hardly desperate for developers wanting to build to code and under the current zone. Also, NONE of the units in the development will be "affordable housing." The rents for every unit in that new development will start out at a very high rate, and therefore, the discounted market rate will be unreachable for most of the intended beneficiaries of "affordable housing." In other words, by allowing the rezone, you will be allowing one more structure for relatively well-off people. We don't need another of those.

Thank you for your consideration.

Best,  
Margaret Boyle



## Johnson, Alayna

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**From:** Michael Richards <mikelrich@msn.com>  
**Sent:** Monday, May 07, 2018 10:09 AM  
**To:** Examiner, Hearing  
**Subject:** Fw: Project #: 314356 (or #6596357? or 3023260?) / 7009 Greenwood Ave. N. - Up Zone Request

It's unclear if this comment below has been forwarded to the Hearing Examiner or not. There have been several project numbers and concern if SDCI was providing the Hearing Examiner with the entire record. Thus, I respectively resubmit it as relevant to the proposed Up-Zone. Thank you,

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Michael Richards

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**From:** Michael Richards <mikelrich@msn.com>  
**Sent:** Thursday, April 26, 2018 9:59 PM  
**To:** prc@seattle.gov  
**Subject:** Project #: 6596357 / 7009 Greenwood Ave. N. - Up Zone Request

Previously submitted under project number 3023260.

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I've lived in the Greenwood/Phinney neighborhood for 30+ years. Like neighborhoods everywhere, change is inevitable. However, that change should not be random, or contrary to the existing neighborhood or impact its livability. I oppose the SDIC recommended up-zone of this project from NC2-40' to NC2-55'. I encourage you to look closely at how this would affect the neighborhood as well as the rationale for this proposed up-zone in the first place.

First, I'll note that the Greenwood Phinney Urban Village is unique and probably the least able, out of all the other Urban Villages, to absorb large scale, high rise development. There is a cluster of development at the Urban Center surrounding N 85<sup>th</sup> and Greenwood Ave. N. That is the core business district for the area. However, the Urban Village goes south from there (literally) for 15+ blocks to 67<sup>th</sup> then around a jog for two more blocks on Phinney Ave to 65<sup>th</sup>. That skinny strip of Urban Village is ONE LOT deep on either side (east and west) of the arterial. Directly adjacent to that current NC2-40 zoned area are single (SF) family zoned lots – the entire length of that Urban Village. The arterial, Greenwood Ave. N., is at the very top of a true ridge that slopes steeply both to the east and west – toward either Ballard or Greenlake. Project #: 6596357 is along that skinny strip of Urban Village.

- Any oversized building in this area will stick out like a sore thumb, far above the existing neighborhood – easily visible from Puget Sound to the west, View Ridge and beyond to the East as well as vantage points north and south.
- Greatly increased shadows will be cast, especially in the morning hours over the SF residences to the west. Likewise with shadows to the east in the evenings. This is a large building! On top of a ridge! To minimize impact on neighbors, this type of building should be at the bottom of a hill.
- The skyline will be negatively affected for anyone walking or driving that arterial.

The developer has noted this proposed up-zone as consistent with the proposed heights once HALA goes through. Well, HALA is not a certainty by any means. Opposition is growing. A new Mayor is in town. A city-wide appeal has been filed. Individual neighborhoods are supposedly to be recognized for their unique characteristics. Phinney Ridge will likely put up a notable fight to prevent that skinny strip of Urban Village from being unrealistically developed. Of note is that the developer has been known to state that if the up-zone doesn't go through, they'll put up a "more profitable" square box full of small apartments. That "threat" likely helped sway some opinion favorably toward the up-zone. If carried out, I'd bet the neighborhood would vigorously fight that.

Notable as well, the proposed building at normal NC2-40 height, is well thought out, a quality structure, has several family sized units, and more or less fitting to the neighborhood (it does have huge bulk for the area in general though). I commend the developer for that. However, the extra height is a problem. Why not wait and see if HALA does go through?

Lastly, there's a reason for the extra proposed height. The developer plans to move in and occupy the top floor (or two?) – undoubtedly with panoramic views in every direction. This, of course, is consistent with the building also being highly visible from through the area in every direction. So, there we have the benefit to a few at the cost of many.

Thank you for your thoughtful decision on this proposed up-zone

Sincerely  
Michael F. Richards