



**CITY OF SEATTLE
ANALYSIS AND RECOMMENDATION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Record Number: 3043809-LU
Clerk File Number: CF 314549
Applicant: Jared Pechauer, Cone Architecture
Address of Proposal: 5201 Rainier Avenue South

SUMMARY OF PROPOSAL

Land Use Application to extend the time limit for Council Land Use Action to rezone a parcel from Neighborhood Commercial 2 with a 40' height limit (NC2 40') to Neighborhood Commercial 3 with a 65' height limit (NC3 65') and the M1 suffix (NC3-65(M1)). Proposal includes a 3-story, 4-unit townhouse structure and a 6-story structure with 104 apartment units, 3 live-work units, and 1,607 sq. ft. of restaurant space. Parking for 52 vehicles proposed below grade. Existing structures to be demolished. Original permit issued under 3018378-LU.

The following approval is required:

- I. **Council Land Use Action – (SMC Chapter 23.76)** - to extend the time limit on Type IV land use decision (contract rezone).

SEPA DETERMINATION

- Determination of Nonsignificance (DNS)
 - Pursuant to SEPA substantive authority provided in SMC 25.05.660, the proposal has been conditioned to mitigate environmental impacts.
 - No mitigating conditions of approval are imposed.
- Determination of Significance (DS) – Environmental Impact Statement (EIS)
- Determination made under prior action.
- Exempt

BACKGROUND

The contract rezone was approved by City Council on July 30, 2018 (Ordinance number 125632/Clerk File 314311). The contract rezone changed the zone from Neighborhood Commercial 2 with a 40-foot height limit (NC2-40) to Neighborhood Commercial 3 with a 65-foot height limit and a Medium 1 Mandatory Housing Affordability suffix (NC3-65 (M1)). The approval of the contract rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved by the ordinance. The development project associated with this contract rezone includes a three-story, four-unit townhouse structure and six-story structure with 104 apartment units, three live-work units, and 1,607 square feet of restaurant space. The new zoning designation expires according to SMC 23.76.060. The applicant now requests an extension to this contract rezone pursuant to SMC 23.76.020.

SITE AND VICINITY

Site Description: The site is generally rectangular in shape and located at the intersection of Rainier Avenue South and 39th Avenue South.

Site Zone: Neighborhood Commercial 3 with a 65-foot height limit and Medium 1 Mandatory Housing Affordability (MHA) Suffix (NC3-65 (M1))

Zoning Pattern: (North) NC3P-40 and NC2-55 (M)
(South) LR2 (M) and NC2-65 (M1)
(East) NC2-55 (M) and NC2-65 (M1)
(West) LR2 (M) and NC2-75 (M)

Environmentally Critical Areas: Liquefaction prone soils



The top of this image is north. This map is for illustrative purposes only. In the event of omissions, errors or differences, the documents in SDCI's files will control.

PUBLIC COMMENT

The public comment period ended on March 25, 2026 after a request for an extension. Comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to sharing support for housing. Comments were also received that are beyond the scope of this review and analysis per SMC 23.76.060.

I. ANALYSIS – COUNCIL LAND USE ACTION

SMC 23.76.060 - EXPIRATION AND EXTENSION OF COUNCIL LAND USE DECISIONS

E. Extensions. The Council may extend the time limits on Type IV land use decisions for two years or such other time as the Council may determine appropriate, upon an applicant's filing an application to the Department at least 120 days before the approval's expiration. The Council may request a recommendation on the extension application from the Director, but the Hearing Examiner hearing and recommendation requirements of Section 23.76.052 do not apply. Notice of applications for extensions of Type IV land use decisions and an opportunity to comment shall be provided pursuant to subsections 23.76.012.B.1 or B.2, and subsection 23.76.012.B.3, and notice and an opportunity to comment shall also be provided to the parties of record in the Council's original Type IV land use proceeding and to those persons who were provided written notice of the Hearing Examiner's recommendation on the original Type IV application to the extent reasonably practicable.

- 1. The Council may not extend the time limit for a Type IV land use decision for a project that is not in conformance with applicable regulations, including land use and environmentally critical areas regulations, in effect at the time application for an extension is made.*

The project is in compliance with applicable regulations.

- 2. In deciding whether to grant an extension, the Council shall consider:*

- a. *The reason or basis for the application for the extension and whether it is reasonable under the circumstances;*

The applicant cites four reasons for the extension request: City of Seattle permitting requirements and process; Covid-19 pandemic; financial markets; and project timing. SDCI reviewed the applicant's reasons and found them reasonable.

- b. *Whether changed circumstances in the area support an extension;*

In April 2019, approximately nine months after the approval of this contract rezone, properties in the area were rezoned via a citywide rezone effort (Ordinance number 125791). This zoning effort generally resulted in increases in height and density and added a Mandatory Housing Affordability (MHA) suffix to the zoning designations. Nearby maximum structure height limits range from 40 to 75 feet.

Additionally, development in the area has increased since approval of this contract rezone, one such example is the property abutting to the south at 5231 Rainier Avenue South (Master Use Permit (MUP) number 3034542-LU) for a four and five story apartment building with 120 small efficiency dwelling units.

- c. *Whether additional time is reasonably necessary to comply with a condition of approval adopted by the Council that is required to be fulfilled prior to expiration of the Council land use decision.*

The PUDA contains two Council conditions of approval: one requiring the site be developed in substantial conformance with the final approved plans for the MUP number 3018378-LU; and that the site be subject to MHA.

The MUP (3018378-LU) and related construction permit (6692365-CN) are both approved. The applicant describes the project as a "shovel-ready project" that may "begin construction promptly once financing is secured".

SMC 23.76.060.E. states the Council may extend the time limits on Type IV land use decisions for two years or such other time as the Council may determine appropriate. The applicant's request does not include a specified timeframe in which this project could be completed. SDCI supports an extension of time for two years or such other time as Council may determine appropriate.

RECOMMENDATION – COUNCIL LAND USE DECISION

SDCI recommends approval of this Council Land Use Decision application request to extend the time limit on the Type IV land use decision (Contract Rezone MUP number 3018378-LU) pursuant to 23.76.060.E.

RECOMMENDED CONDITIONS – COUNCIL LAND USE DECISION

None.

Carly Guillory, Senior Land Use Planner
Seattle Department of Construction and Inspections

Date: April 8, 2026