



**Legislative Department
Seattle City Council
Memorandum**

Date: August 09, 2013

To: Richard Conlin, Chair
Tim Burgess, Vice Chair
Mike O'Brien, Member
Planning, Land Use and Sustainability (PLUS) Committee

From: Eric McConaghy, Council Central Staff

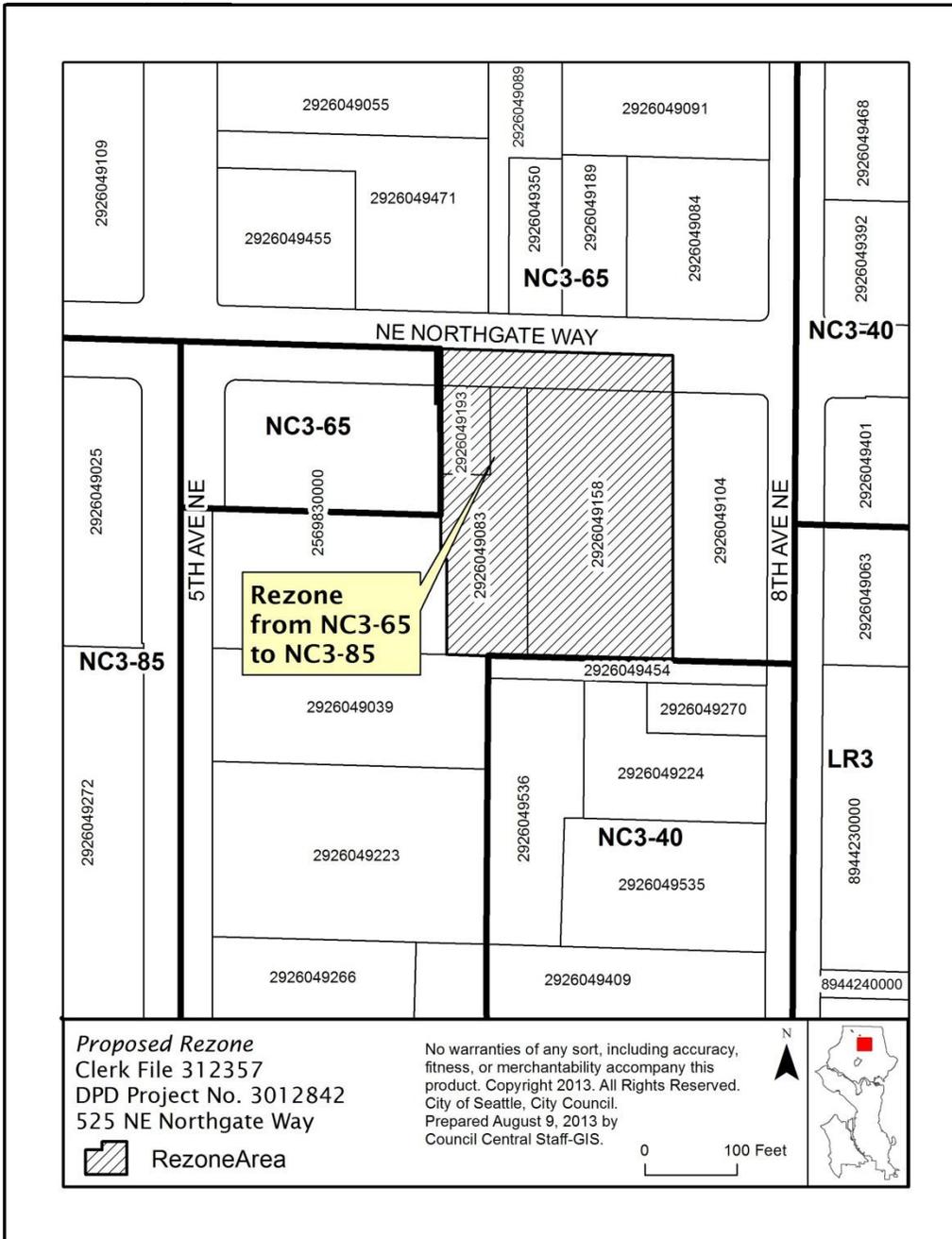
Subject: Clerk File (CF) 312357: Application of Wallace GT-Northgate II, LLC for approval of a contract rezone of approximately 72,985 sq. ft. of land, on three parcels of land, at 525 N.E. Northgate Way from Neighborhood Commercial 3 with a 65 foot height limit (NC3-65) to Neighborhood Commercial 3 with an 85 foot height limit (NC3-85) and to allow a seven-story, mixed use structure with 24,614 square feet of commercial use, 266 residential units above, and with parking for 269 vehicles provided at- and below-grade.

1. Overview

Wallace GT-Northgate II, LLC (“Proponent”) proposes a contract rezone on a site located mid-block between Fifth Avenue N.E. and Eighth Avenue N.E. on the south side of N.E. Northgate Way. Northgate Mall is approximately one block west of the site. The rezone site, as shown on the map below, totals approximately 72,985 square feet of land.

The site is currently zoned Neighborhood Commercial 3 with a 65 foot height limit (NC3-65). The proponent has requested a rezone of the site to Neighborhood Commercial 3 with an 85 foot height limit (NC3-85) and to allow a seven-story, mixed-use structure with 24,614 square feet of ground floor commercial use, 266 residential units above, and with parking for 269 vehicles provided at- and below-grade. The applicant proposes a Property Use and Development Agreement (PUDA) limiting the development height at this site to 70 feet.

Both the Department of Planning and Development (DPD) and the Hearing Examiner find the proposal to be consistent with the City’s rezone criteria and recommend approval of the rezone. DPD received three public comment letters regarding the rezone application in support of the height increase. No written comments were submitted to the Hearing Examiner and no member of the public offered comments at the hearing.



2. Type of Action – Standard of Review - No Appeal or Request to Supplement the Record

This rezone request applies to a specific site; it is not an area-wide amendment proposal. Therefore, it is a Type IV quasi-judicial rezone under Seattle Municipal Code (SMC)¹. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication and the Council’s rules on quasi-judicial proceedings (Resolution 31375). The Hearing Examiner establishes the record for the decision at an open-record hearing. No public testimony was offered at the hearing.

¹ SMC Chapter 23.76.004 and 23.76.036

After the hearing, the record may be supplemented through a timely request to Council only. No appeal of the Hearing Examiner's recommendation was filed, and there was no timely request to supplement the record.

Because there was no appeal or timely request to supplement the record, the Council's quasi-judicial rules require that the decision be based upon the record as submitted by the Hearing Examiner, and that no oral argument be presented by the parties to PLUS. The Council's quasi-judicial rules provide that the action by Council must be supported by substantial evidence in the record.

The record contains the substance of the sworn testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing. Those exhibits include but are not limited to:

- The recommendation of the Director of DPD,
- The environmental (SEPA) checklist for the proposal;
- Development plans and photographs showing the rezone area;
- The rezone application, and other application materials; and
- An audio recording of the Hearing Examiner's open record hearing.

The entire Hearing Examiner's record is kept in my office and is available for your review.

3. Materials from the Record Reproduced in PLUS Notebooks

I have provided copies of the following exhibits from the Hearing Examiner's record:

1. The Hearing Examiner's Recommendation (including the findings of fact and conclusions supporting the recommendation) (Attachment A: green);
2. DPD Director's Analysis and Recommendation² (Attachment B: blue);
3. Relevant copies of a rendering and elevations of the proposed development³ (Attachment C);

4. Summary of the record

The Hearing Examiner recommended that Council **APPROVE** the rezone request, following a similar recommendation by DPD, subject to recommended conditions. The following is a brief summary of the zoning history, the proposed development, public comment, and the Hearing Examiner's conclusions.

² Hearing Examiner's Exhibit 2

³ Hearing Examiner's Exhibits 11 and 12

A. Zoning history

The rezone site has been zoned NC3-65 since 1993 with the adoption of the Northgate Neighborhood Plan and the Northgate Overlay District. The City last amended the Northgate Neighborhood Plan in 2012. The Neighborhood Plan does not recommend or require specific height limits for anywhere in the neighborhood.

The City issued the Final Environmental Impact Statement (FEIS) for the Northgate Urban Center Rezone in 2009, examining alternatives for zoning changes in the area. The FEIS included discussion of four alternatives: one no action and three action alternatives. The FEIS concluded that none of the alternatives, including one alternative with a 125-foot height limit, would result in significant unavoidable land use impacts. The City did not adopt any of these alternatives; however, the analysis of the FEIS is relevant to the current consideration.

B. Surrounding area

The property is bounded by N.E. Northgate Way on the north and an alley to the south, providing access. Immediately adjacent to the west is the 507 Northgate building, a 65-foot tall, six-story, mixed-use structure of height and bulk similar to the proposed project. This building separates the rezone site from the Northgate Mall.

The property occupied by the Northgate Mall is zoned NC3-85 on the north side of the mall and NC3-125 on the south side of the mall. The height limits in the area adjacent to N.E. Northgate Way step down from 85 feet next to Interstate 5, to 65 feet including the rezone site, then to 40 feet, and finally to residential areas to the east. The zoning to the north and south of the N.E. Northgate Way, in the vicinity, is a mix of NC3, Multi-family Midrise (MR) and Lowrise 3 (LR-3) zoning.

One-half block to the north along Eighth Avenue is an eight-story apartment complex. Across N.E. Northgate Way, one-half block to the northwest is the Target/Best Buy commercial development. To the east, is a one-story, commercial building used by a retail store. The other nearby developed property is a mix of residential and commercial uses. Two City parks are nearby. Hubbard Park is located northeast of the site and Northgate Park is three blocks to the south.

N.E. Northgate Way is a principal arterial. Fifth Avenue is a minor arterial and Eighth Avenue N.E. is a non-arterial street. The ground in the area slopes gently from west to east and from north to south. The rezone site does not contain any Environmentally Critical Areas and it is not within a shoreline environment.

C. Project information

See Attachment C for copies of rendering and elevations of the proposed development illustrating the proposed structures and the surrounding context.

DPD issued Master Use Permit (MUP) #3012842 in February 2013 for a project proposal on the site conforming to the 65-foot height limit for the existing zoning. The process arriving at

the issuance of the MUP included design review and SEPA Determination of Non-Significance.

The proponent is currently developing the site under MUP #3012842. Construction of the first phase of the project under DPD Permit #6330884 began on the site in March 2013 in the form of demolition, grading, excavation, shoring, and constructing a concrete pedestal. The single-story commercial structures formerly on the site were demolished as part of site preparation. No residential structures were demolished.

The new proposal, increasing the height of the building by 5 feet, is similar to the project approved under MUP #3012842. Compared to developing under the current MUP controlled by existing zoning, the rezone would allow a taller building overall, allowing for greater floor-to-ceiling heights for the commercial spaces, thus broadening the range of potential retail tenants such as drugstores and small grocers. The new proposal also adds 13 additional residential units on the top floor, which are permitted under the current zoning on the top floor.

Comparison of approved and proposed projects for 525 N.E. Northgate Way

Approved MUP #3012842

- 7-story, 65' building
- 253 residential units
- 24,869 square-feet of ground level commercial space
- 269 below-grade parking stalls

MUP / Contract Rezone application #3012776

- 7-story, 70' building
- 266 residential units
- 24,614 square-feet of ground level commercial space
- 269 below-grade parking stalls

The proposed design of the project includes improvements to the pedestrian environment such as a continuous planting strip along N.E. Northgate Way, building materials and colors that enhance the streetscape, a mix of canopy styles, and interesting storefronts and entrances.

D. Public comment

DPD received three public comment letters regarding the rezone application in support of the height increase. No written comments were submitted to the Hearing Examiner and no member of the public offered comments at the hearing. The project did receive public comment as part of the design review process. These comments focused on the façade and lobby of the building; the interaction between pedestrians and the building; and directing vehicle traffic onto arterial streets.

E. Summary of the Hearing Examiner's conclusions

The Hearing Examiner weighed and balanced the rezone provisions of SMC 23.34.007 to determine the appropriate zoning designation, noting that the site is also subject to the provisions of SMC Chapter 23.34 that apply to urban centers and villages.

1. Effect on zoned growth capacity:

The Hearing Examiner concluded that the proposed rezone would not reduce the zoned capacity for the Northgate Urban Center. The zoned capacity under the rezone would continue to exceed 125 percent of the growth target for the Northgate Urban Center. The proposal, therefore, meets the requirement of SMC 23.34.008 that the zoned capacity in an urban center, taken as a whole, shall be no less than 125 percent of the applicable growth target. The adopted growth target is for an additional 2,500 dwelling units between 2004 and 2024, and the target density is for 15 dwelling units per acre.

2. Rezoning the property from NC3-65 to NC3-85 – functional and locational criteria:

Recommendations on rezones include an evaluation of the extent to which 1) the site meets criteria related to its current zone and 2) if the site should be rezoned to a different designation. This occurs through an evaluation of both functional and locational criteria for that zone; both sets of criteria for the proposed zone must be satisfied.

No change is proposed to the NC3 designation. Moreover, the Hearing Examiner found that the “NC3 criteria continue to match the characteristics of the area better than any other zone designation.”

3. Zoning history and precedential effect:

As described above, the zone designation for the rezone site has been NC3-65 since 1993. In the vicinity of the rezone site, there have been recent rezones from MR to NC3-85 at 11300 and 11301 Third Avenue N.E. The proposed rezone for a height increase would be consistent with recent rezones, and changes considered in the Northgate Neighborhood Plan and FEIS. The Hearing Examiner concluded that the proposed rezone for an increase in height could be precedential, but consistent with the goals and policies of the Plan for increased density and intensity of uses in the Northgate core area.

4. Relationship to neighborhood plans:

The adopted Northgate Neighborhood Plan does not identify specific policies to guide future rezones. The plan does include several policies that call for a “mixed-use center of concentrated development” with “the most intense and dense development activity concentrated with the core” Other policies of the plan encourage “development of the core...sufficient to support transit” and call attention “to the development of an environment that creates a network of pedestrian connections and that encourages pedestrian activity” The Hearing Examiner found that the rezone of the site would support and implement these policies. Furthermore, the Hearing Examiner found the rezone would not affect the transition between zones, noting that the adjacent NC3-40 and NC-65 zones would buffer the rezone area from the nearby LR zones.

5. Zoning principles:

The Hearing Examiner found that the proposed increase of five feet in building height would not have negative effects with regard to less intense uses adjacent to the site; shadowing or

blocking of views; and would not overpower the buffering effect of the adjacent NC3-65 and NC3-40 zones standing between the rezone site and LR3 zoning. The zoning boundaries would still follow lot lines and the rezone would not change the physical buffering provided by N.E. Northgate Way. The boundaries between commercial and residential areas would not be changed. The Hearing Examiner concluded that the rezone would be consistent with zoning principles.

6. Impact evaluation:

The Hearing Examiner stated that the height increase to 70 feet would not affect allowable uses, or add floors or floor area to what is allowed under existing zoning designation. Some potential, minimal increased shadowing on N.E. Northgate Way would be the only negative environmental effect of the height increase. The Hearing Examiner found that the rezone met the impact criterion, adopting and incorporating by reference the DPD Director's evaluation of impacts.

7. Height-limited to 70 feet under PUDA:

The Hearing Examiner considered several factors as provided by SMC 23.34.009 with regard to the height limit for the site and concluded that the proposed height limit would be consistent with the type and scale of development for the zone; would not be expected to displace preferred uses; and may expand the demand for goods and services.

The Hearing Examiner noted that the roofline of the proposed building on the rezone site would appear to be in line with the roofline of the neighboring, existing building. This results from a ten-foot grade change from west to east across the rezone site, accommodating the 5-foot difference in building height. Similarly, the height and scale of proposed development on the rezone site would be consistent with actual and zoned heights in the area.

The Hearing Examiner noted that the adopted Northgate Neighborhood Plan does not recommend or require specific heights.

The Hearing Examiner concluded that the proposed rezone to NC3-85, with a height limit of 70 feet, would be consistent with the rezone provisions of SMC 23.34.009.

5. Conditions recommended by DPD and the Hearing Examiner

DPD conditionally granted approval of the project design, agreeing with the Design Review Board on the conditions on the project, namely:

- Add a second traffic calming device along the driveway on the project's west side;
- On the eastern segment of the south façade, add a scaling device to the architectural design in order to diminish the appearance of this sizeable blank wall;
- Establish a small plaza between the residential door and the Northgate Way sidewalk. Alter the door and fenestration of the residential entrance so that they do not resemble commercial glazing. Increase the amount of wood; and
- Provide signage at the residential entrance along Northgate Way.

DPD recommended approval of the proposed rezone, with conditions to mitigate environmental impacts during construction or to control impacts not regulated by codes or ordinances, per adopted City policies. The conditions are summarized below:

Prior to issuance of building permit

- Provide a transportation route plan to the Seattle Department of Transportation and DPD;
- Provide a construction worker parking plan; and
- Help fund a proximate capital project identified in Coordinated Transportation Investment Plan on a pro-rata basis. The requested amount of \$61,187 shall be applied to a specific CTIP project: the planned Northgate Way Corridor Signal Optimization and Prioritization. (The applicant has paid this fee under DPD Permit #3012842)

During construction

- Noisy activities are limited to specified times of day and days of the week;
- Non-noisy activities are not limited by the above condition;
- Large (greater than two-axle) trucks will be prohibited from entering or exiting the site after 3:30 P.M.; and
- Construction activities outside of the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan.

Prior to Building Occupancy

- Construct a modified and improved access connection south to the existing east-west access road that will allow access to both Fifth Avenue N.E. and Eighth Avenue N.E.

Permanent for the Life of the Project

- The north access to and from N.E. Northgate Way shall be restricted to allow only right-in/right-out movements (turns).

6. Recommendation

I recommend that PLUS move to **APPROVE** the rezone request and adopt the Hearing Examiner's findings, conclusions and recommendation with the stated conditions. The increased potential for development of the site, as proposed under the contract rezone, poses no significant detrimental effects while implementing the goals and policies of the Northgate Neighborhood Plan, consistent with the zoning designation for the area.

7. Next Steps

If the Committee recommends approval of the rezone, I will draft a Council Findings, Conclusion and Decision (F, C and D); a Council Bill; and a draft PUDA in consultation with the Law Department. Once the Council Bill is introduced the matter will come back to PLUS for a vote, likely on September 11, 2013.